

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 434

Introduced by Senator Hill

February 21, 2013

An act to amend ~~Section 17010~~ and repeal Sections 17053.34, 17053.46, 17053.47, 17053.74, 23622.7, 23622.8, 23634, and 23646 of, and to add Section 41 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 434, as amended, Hill. ~~Personal income taxes: income and corporation taxes: hiring credits: enterprise zones, LAMBRA's, manufacturing enhancement areas, and targeted tax areas.~~

The Personal Income Tax Law ~~imposes taxes on income and provides definitions of specified terms for purposes of that law, including a definition for "taxable year."~~ and the Corporation Tax Law allow credits for hiring employees, based on qualified wages, in an enterprise zone, a LAMBRA, a manufacturing enhancement area, and a targeted tax area.

This bill would, among other things, revise the percentage of qualified wages allowed per year of employment with regard to determining the credit amount; limit the application of these credits to only the qualified wages for each net increase of qualified employees, as specified, limit credit eligibility for taxpayers that relocate to an enterprise zone, a LAMBRA, a manufacturing enhancement area, or a targeted tax area from within the state to those taxpayers that offer each employee from the previous location or locations a written bona fide offer of employment in the new location; revise the definitions of "qualified wages" and "qualified taxpayer;" cap the aggregate amount of credit

allowed per taxable year for specified hiring credits, as provided, and require the Franchise Tax Board to publish specified information on its Internet Web site, as provided.

This bill would additionally prohibit a person from charging a contingent fee, as defined, for services rendered in connection with a tax credit relating to enterprise zones, LAMBRA, manufacturing enhancement areas, or targeted tax areas and would impose a penalty for the violation of this prohibition, as specified. This bill would require that, upon request of the Franchise Tax Board, that a person rendering these services provide, under penalty of perjury, a written certification that a fee for those services does not include a contingent fee.

By expanding the definition of an existing crime, this bill imposes a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

~~This bill would make a technical, nonsubstantive change to those provisions.~~

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 41 is added to the Revenue and Taxation
- 2 Code, to read:
- 3 41. (a) Notwithstanding any other law, a person shall not
- 4 charge a contingent fee for services rendered in connection with
- 5 a tax credit relating to an enterprise zone, a LAMBRA, a
- 6 manufacturing enhancement area, or a targeted tax area.
- 7 (b) For purposes of this section, "contingent fee" means any
- 8 fee charged upon the occurrence of a contingency and includes,
- 9 but is not limited to, a fee that is based on a percentage of the

1 refund reported on a return, a fee that is based on a percentage
2 of the taxes reduced, or a fee that depends upon the specific tax
3 result attained.

4 (c) A penalty shall be imposed under this section upon the
5 person charging a contingent fee for services rendered in
6 connection with a tax credit relating to an enterprise zone, a
7 LAMBRA, a manufacturing enhancement area, or a targeted tax
8 area in an amount that is the greater of five thousand dollars
9 (\$5,000) or 100 percent of the contingent fee charged, whether or
10 not any contingent fee was actually paid or otherwise received,
11 directly or indirectly, by the service provider.

12 (d) (1) The penalty imposed under subdivision (c) shall be due
13 and payable upon notice and demand by the Franchise Tax Board.

14 (2) Article 3 (commencing with Section 19031) of Part 10.2
15 shall not apply with respect to the assessment or collection of any
16 penalty imposed under subdivision (c).

17 (e) The Legislature finds and declares that contingent fees for
18 services rendered in connection with a tax credit relating to an
19 enterprise zone, a LAMBRA, a manufacturing enhancement area,
20 or a targeted tax area are against public policy and any contract
21 or arrangement that provides for a contingent fee is void and
22 unenforceable.

23 (f) Any person rendering services in connection with a tax credit
24 relating to an enterprise zone, a LAMBRA, a manufacturing
25 enhancement area, or a targeted tax area may be required to
26 provide, upon request of the board of the Franchise Tax Board, a
27 written certification, submitted under penalty of perjury, that the
28 fee for those services does not include, in whole or in part, a
29 contingent fee.

30 (g) The Franchise Tax Board may prescribe rules, guidelines,
31 or procedures necessary or appropriate to carry out the purposes
32 of this section.

33 (h) This section shall apply to all contracts or arrangements
34 that provide for a fee for services rendered in connection with a
35 tax credit relating to an enterprise zone, a LAMBRA, a
36 manufacturing enhancement area, or a targeted tax area on or
37 after the effective date of this act.

38 SEC. 2. Section 17053.34 of the Revenue and Taxation Code
39 is amended to read:

17053.34. (a) (1) For each taxable year beginning on or after January 1, 1998, *and before January 1, 2013*, there shall be allowed a credit against the “net tax” (as defined in Section 17039) to a qualified taxpayer who employs a qualified employee in a targeted tax area during the taxable year. The credit shall be equal to the sum of each of the following:

~~(1)~~

(A) Fifty percent of qualified wages in the first year of employment.

~~(2)~~

(B) Forty percent of qualified wages in the second year of employment.

~~(3)~~

(C) Thirty percent of qualified wages in the third year of employment.

~~(4)~~

(D) Twenty percent of qualified wages in the fourth year of employment.

~~(5)~~

(E) Ten percent of qualified wages in the fifth year of employment.

(2) (A) *For each taxable year beginning on or after January 1, 2013, and before January 1, 2019, there shall be allowed a credit against the “net tax,” as defined in Section 17039, to a qualified taxpayer who employs a qualified employee in a targeted tax area during the taxable year. The credit shall be equal to the sum of each of the following:*

(i) Ten percent of qualified wages in the first year of employment.

(ii) Ten percent of qualified wages in the second year of employment.

(iii) Thirty percent of qualified wages in the third year of employment.

(iv) Forty percent of qualified wages in the fourth year of employment.

(v) Fifty percent of qualified wages in the fifth year of employment.

(B) *The credit shall be allowed only with respect to qualified wages paid for each net increase in qualified employees. A net*

1 *increase shall be determined by subtracting from the amount*
2 *determined in clause (i) the amount determined in clause (ii).*

3 *(i) The total number of qualified employees employed in the*
4 *state in the preceding taxable year by the qualified taxpayer and*
5 *by any trade or business acquired by the qualified taxpayer during*
6 *the preceding taxable year.*

7 *(ii) The total number of qualified employees employed in the*
8 *state in the current taxable year by the qualified taxpayer and by*
9 *any trade or business acquired by the qualified taxpayer during*
10 *the current taxable year.*

11 *(C) If a qualified taxpayer relocated to a targeted tax area from*
12 *within the state during the taxable year for which the credit is*
13 *claimed, the qualified taxpayer shall be allowed a credit with*
14 *respect to qualified wages for each net increase in qualified*
15 *employees only if the qualified taxpayer makes each employee at*
16 *the previous location or locations a written bona fide offer of*
17 *employment at the new location.*

18 (b) For purposes of this section:

19 (1) “Qualified wages” means:

20 (A) That portion of wages paid or incurred by the qualified
21 taxpayer during the taxable year to qualified employees that ~~does~~
22 ~~not exceed 150~~ *exceeds 200 percent of the minimum wage and*
23 *does not exceed 500 percent of the minimum wage.*

24 (B) Wages received during the 60-month period beginning with
25 the first day the employee commences employment with the
26 qualified taxpayer. Reemployment in connection with any increase,
27 including a regularly occurring seasonal increase, in the trade or
28 business operations of the qualified taxpayer does not constitute
29 commencement of employment for purposes of this section.

30 (C) Qualified wages do not include any wages paid or incurred
31 by the qualified taxpayer on or after the targeted tax area expiration
32 date. However, wages paid or incurred with respect to qualified
33 employees who are employed by the qualified taxpayer within the
34 targeted tax area within the 60-month period prior to the targeted
35 tax area expiration date shall continue to qualify for the credit
36 under this section after the targeted tax area expiration date, in
37 accordance with all provisions of this section applied as if the
38 targeted tax area designation were still in existence and binding.

39 (2) “Minimum wage” means the wage established by the
40 Industrial Welfare Commission as provided for in Chapter 1

(commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Targeted tax area expiration date” means the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of his or her services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer’s trade or business located in a targeted tax area.

(ii) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a targeted tax area.

(iii) Is hired by the qualified taxpayer after the date of original designation of the area in which services were performed as a targeted tax area.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was a dislocated worker who meets any of the following:

(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has

1 exhausted entitlement to unemployment insurance benefits, and
2 is unlikely to return to his or her previous industry or occupation.

3 (bb) Has been terminated or has received a notice of termination
4 of employment as a result of any permanent closure or any
5 substantial layoff at a plant, facility, or enterprise, including an
6 individual who has not received written notification but whose
7 employer has made a public announcement of the closure or layoff.

8 (cc) Is long-term unemployed and has limited opportunities for
9 employment or reemployment in the same or a similar occupation
10 in the area in which the individual resides, including an individual
11 55 years of age or older who may have substantial barriers to
12 employment by reason of age.

13 (dd) Was self-employed (including farmers and ranchers) and
14 is unemployed as a result of general economic conditions in the
15 community in which he or she resides or because of natural
16 disasters.

17 (ee) Was a civilian employee of the Department of Defense
18 employed at a military installation being closed or realigned under
19 the Defense Base Closure and Realignment Act of 1990.

20 (ff) Was an active member of the Armed Forces or National
21 Guard as of September 30, 1990, and was either involuntarily
22 separated or separated pursuant to a special benefits program.

23 (gg) Is a seasonal or migrant worker who experiences chronic
24 seasonal unemployment and underemployment in the agriculture
25 industry, aggravated by continual advancements in technology and
26 mechanization.

27 (hh) Has been terminated or laid off, or has received a notice
28 of termination or layoff, as a consequence of compliance with the
29 Clean Air Act.

30 (V) Immediately preceding the qualified employee's
31 commencement of employment with the qualified taxpayer, was
32 a disabled individual who is eligible for or enrolled in, or has
33 completed a state rehabilitation plan or is a service-connected
34 disabled veteran, veteran of the Vietnam era, or veteran who is
35 recently separated from military service.

36 (VI) Immediately preceding the qualified employee's
37 commencement of employment with the qualified taxpayer, was
38 an ex-offender. An individual shall be treated as convicted if he
39 or she was placed on probation by a state court without a finding
40 of guilty.

1 (VII) Immediately preceding the qualified employee's
2 commencement of employment with the qualified taxpayer, was
3 a person eligible for or a recipient of any of the following:

4 (aa) Federal Supplemental Security Income benefits.

5 (bb) Aid to Families with Dependent Children.

6 (cc) CalFresh benefits.

7 (dd) State and local general assistance.

8 (VIII) Immediately preceding the qualified employee's
9 commencement of employment with the qualified taxpayer, was
10 a member of a federally recognized Indian tribe, band, or other
11 group of Native American descent.

12 (IX) Immediately preceding the qualified employee's
13 commencement of employment with the qualified taxpayer, was
14 a resident of a targeted tax area.

15 (X) Immediately preceding the qualified employee's
16 commencement of employment with the taxpayer, was a member
17 of a targeted group as defined in Section 51(d) of the Internal
18 Revenue Code, or its successor.

19 (B) Priority for employment shall be provided to an individual
20 who is enrolled in a qualified program under the federal Job
21 Training Partnership Act or the Greater Avenues for Independence
22 Act of 1985 or who is eligible as a member of a targeted group
23 under the Work Opportunity Tax Credit (Section 51 of the Internal
24 Revenue Code), or its successor.

25 (5) (A) "Qualified taxpayer" means a person or entity that meets
26 both of the following:

27 (i) Is engaged in a trade or business within a targeted tax area
28 designated pursuant to Chapter 12.93 (commencing with Section
29 7097) of Division 7 of Title 1 of the Government Code.

30 (ii) Is engaged in those lines of business described in Codes
31 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
32 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
33 of the Standard Industrial Classification (SIC) Manual published
34 by the United States Office of Management and Budget, 1987
35 edition.

36 (B) In the case of any passthrough entity, the determination of
37 whether a taxpayer is a qualified taxpayer under this section shall
38 be made at the entity level and any credit under this section or
39 Section 23634 shall be allowed to the passthrough entity and passed
40 through to the partners or shareholders in accordance with

1 applicable provisions of this part or Part 11 (commencing with
2 Section 23001). For purposes of this subdivision, the term
3 “passthrough entity” means any partnership or S corporation.

4 (C) “*Qualified taxpayer*” shall not include employers that
5 provide temporary help services, as described in Code 561320 of
6 the North American Industry Classification System (NAICS).

7 (6) “Seasonal employment” means employment by a qualified
8 taxpayer that has regular and predictable substantial reductions in
9 trade or business operations.

10 (c) If the qualified taxpayer is allowed a credit for qualified
11 wages pursuant to this section, only one credit shall be allowed to
12 the taxpayer under this part with respect to those qualified wages.

13 (d) The qualified taxpayer shall do both of the following:

14 (1) Obtain from the Employment Development Department, as
15 permitted by federal law, the local county or city Job Training
16 Partnership Act administrative entity, the local county GAIN office
17 or social services agency, or the local government administering
18 the targeted tax area, a certification that provides that a qualified
19 employee meets the eligibility requirements specified in clause
20 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
21 Employment Development Department may provide preliminary
22 screening and referral to a certifying agency. The Department of
23 Housing and Community Development shall develop regulations
24 governing the issuance of certificates pursuant to subdivision (g)
25 of Section 7097 of the Government Code, and shall develop forms
26 for this purpose.

27 (2) Retain a copy of the certification and provide it ~~upon request~~
28 to the Franchise Tax Board *annually*.

29 (e) (1) For purposes of this section:

30 (A) All employees of trades or businesses, which are not
31 incorporated, that are under common control shall be treated as
32 employed by a single taxpayer.

33 (B) The credit, if any, allowable by this section with respect to
34 each trade or business shall be determined by reference to its
35 proportionate share of the expense of the qualified wages giving
36 rise to the credit, and shall be allocated in that manner.

37 (C) Principles that apply in the case of controlled groups of
38 corporations, as specified in subdivision (d) of Section 23634,
39 shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(f) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled and unable to perform the services

1 of that employment, unless that disability is removed before the
2 close of that period and the qualified taxpayer fails to offer
3 reemployment to that employee.

4 (iii) A termination of employment of a qualified employee, if
5 it is determined that the termination was due to the misconduct (as
6 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
7 the California Code of Regulations) of that employee.

8 (iv) A termination of employment of a qualified employee due
9 to a substantial reduction in the trade or business operations of the
10 qualified taxpayer.

11 (v) A termination of employment of a qualified employee, if
12 that employee is replaced by other qualified employees so as to
13 create a net increase in both the number of employees and the
14 hours of employment.

15 (B) Subparagraph (B) of paragraph (1) shall not apply to any
16 of the following:

17 (i) A failure to continue the seasonal employment of a qualified
18 employee who voluntarily fails to return to the seasonal
19 employment of the qualified taxpayer.

20 (ii) A failure to continue the seasonal employment of a qualified
21 employee who, before the close of the period referred to in
22 subparagraph (B) of paragraph (1), becomes disabled and unable
23 to perform the services of that seasonal employment, unless that
24 disability is removed before the close of that period and the
25 qualified taxpayer fails to offer seasonal employment to that
26 qualified employee.

27 (iii) A failure to continue the seasonal employment of a qualified
28 employee, if it is determined that the failure to continue the
29 seasonal employment was due to the misconduct (as defined in
30 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
31 Code of Regulations) of that qualified employee.

32 (iv) A failure to continue seasonal employment of a qualified
33 employee due to a substantial reduction in the regular seasonal
34 trade or business operations of the qualified taxpayer.

35 (v) A failure to continue the seasonal employment of a qualified
36 employee, if that qualified employee is replaced by other qualified
37 employees so as to create a net increase in both the number of
38 seasonal employees and the hours of seasonal employment.

39 (C) For purposes of paragraph (1), the employment relationship
40 between the qualified taxpayer and a qualified employee shall not

1 be treated as terminated by reason of a mere change in the form
2 of conducting the trade or business of the qualified taxpayer, if the
3 qualified employee continues to be employed in that trade or
4 business and the qualified taxpayer retains a substantial interest
5 in that trade or business.

6 (3) Any increase in tax under paragraph (1) shall not be treated
7 as tax imposed by this part for purposes of determining the amount
8 of any credit allowable under this part.

9 (g) In the case of an estate or trust, both of the following apply:

10 (1) The qualified wages for any taxable year shall be apportioned
11 between the estate or trust and the beneficiaries on the basis of the
12 income of the estate or trust allocable to each.

13 (2) Any beneficiary to whom any qualified wages have been
14 apportioned under paragraph (1) shall be treated, for purposes of
15 this part, as the employer with respect to those wages.

16 (h) For purposes of this section, “targeted tax area” means an
17 area designated pursuant to Chapter 12.93 (commencing with
18 Section 7097) of Division 7 of Title 1 of the Government Code.

19 (i) In the case where the credit otherwise allowed under this
20 section exceeds the “net tax” for the taxable year, that portion of
21 the credit that exceeds the “net tax” may be carried over and added
22 to the credit, if any, in succeeding taxable years, until the credit is
23 exhausted. The credit shall be applied first to the earliest taxable
24 years possible.

25 (j) (1) The amount of the credit otherwise allowed under this
26 section and Section 17053.33, including any credit carryover from
27 prior years, that may reduce the “net tax” for the taxable year shall
28 not exceed the amount of tax that would be imposed on the
29 qualified taxpayer’s business income attributable to the targeted
30 tax area determined as if that attributable income represented all
31 of the income of the qualified taxpayer subject to tax under this
32 part.

33 (2) Attributable income shall be that portion of the taxpayer’s
34 California source business income that is apportioned to the
35 targeted tax area. For that purpose, the taxpayer’s business income
36 attributable to sources in this state first shall be determined in
37 accordance with Chapter 17 (commencing with Section 25101) of
38 Part 11. That business income shall be further apportioned to the
39 targeted tax area in accordance with Article 2 (commencing with

1 Section 25120) of Chapter 17 of Part 11, modified for purposes
2 of this section in accordance with paragraph (3).

3 (3) Business income shall be apportioned to the targeted tax
4 area by multiplying the total California business income of the
5 taxpayer by a fraction, the numerator of which is the property
6 factor plus the payroll factor, and the denominator of which is two.

7 For purposes of this paragraph:

8 (A) The property factor is a fraction, the numerator of which is
9 the average value of the taxpayer's real and tangible personal
10 property owned or rented and used in the targeted tax area during
11 the taxable year, and the denominator of which is the average value
12 of all the taxpayer's real and tangible personal property owned or
13 rented and used in this state during the taxable year.

14 (B) The payroll factor is a fraction, the numerator of which is
15 the total amount paid by the taxpayer in the targeted tax area during
16 the taxable year for compensation, and the denominator of which
17 is the total compensation paid by the taxpayer in this state during
18 the taxable year.

19 (4) The portion of any credit remaining, if any, after application
20 of this subdivision, shall be carried over to succeeding taxable
21 years, as if it were an amount exceeding the "net tax" for the
22 taxable year, as provided in subdivision (h).

23 (5) In the event that a credit carryover is allowable under
24 subdivision (h) for any taxable year after the targeted tax area
25 expiration date, the targeted tax area shall be deemed to remain in
26 existence for purposes of computing the limitation specified in
27 this subdivision.

28 (k) (1) *For each taxable year beginning on or after January 1,*
29 *2013, and before January 1, 2019, the total aggregate amount of*
30 *credits allowed pursuant to this section shall not exceed the total*
31 *aggregate amount of credits claimed pursuant to this section in*
32 *the taxable year beginning on or after January 1, 2012, and before*
33 *January 1, 2013, as determined by the Franchise Tax Board.*

34 (2) *Upon receipt of a timely filed original return, the Franchise*
35 *Tax Board shall allocate the credit to the qualified taxpayer on a*
36 *first-come-first-served basis.*

37 (l) (1) *The Franchise Tax Board shall compile the certifications*
38 *submitted pursuant to paragraph (2) of subdivision (d) and shall*
39 *provide as a searchable database on its Internet Web site, for each*
40 *taxable year beginning on or after January 1, 2013, and before*

1 *January 1, 2019, the employer names, amounts of tax credit*
2 *claimed, and number of new jobs created for each taxable year*
3 *pursuant to this section, Sections 17053.46, 17053.47, 17053.74,*
4 *23622.7, 23622.8, 23634, and 23646.*

5 *(2) The Franchise Tax Board may prescribe rules, guidelines,*
6 *or procedures necessary or appropriate to carry out the purposes*
7 *of this section, including any guidelines regarding the allocation*
8 *of the credit allowed under this section.*

9 *(m) This section shall remain in effect only until December 1,*
10 *2019, and as of that date is repealed.*

11 *SEC. 3. Section 17053.46 of the Revenue and Taxation Code*
12 *is amended to read:*

13 *17053.46. (a) (1) For each taxable year beginning on or after*
14 *January 1, 1995, and before January 1, 2013, there shall be allowed*
15 *as a credit against the “net tax” (as defined in Section 17039) to a*
16 *qualified taxpayer for hiring a qualified disadvantaged individual*
17 *or a qualified displaced employee during the taxable year for*
18 *employment in the LAMBRA. The credit shall be equal to the sum*
19 *of each of the following:*

20 *(1)*

21 *(A) Fifty percent of the qualified wages in the first year of*
22 *employment.*

23 *(2)*

24 *(B) Forty percent of the qualified wages in the second year of*
25 *employment.*

26 *(3)*

27 *(C) Thirty percent of the qualified wages in the third year of*
28 *employment.*

29 *(4)*

30 *(D) Twenty percent of the qualified wages in the fourth year of*
31 *employment.*

32 *(5)*

33 *(E) Ten percent of the qualified wages in the fifth year of*
34 *employment.*

35 *(2) (A) For each taxable year beginning on or after January*
36 *1, 2013, and before January 1, 2019, there shall be allowed as a*
37 *credit against the “net tax,” as defined in Section 17039, to a*
38 *qualified taxpayer for hiring a qualified disadvantaged individual*
39 *or a qualified displaced employee during the taxable year for*

1 *employment in the LAMBRA. The credit shall be equal to the sum*
2 *of each of the following:*

3 *(i) Ten percent of qualified wages in the first year of*
4 *employment.*

5 *(ii) Ten percent of qualified wages in the second year of*
6 *employment.*

7 *(iii) Thirty percent of qualified wages in the third year of*
8 *employment.*

9 *(iv) Forty percent of qualified wages in the fourth year of*
10 *employment.*

11 *(v) Fifty percent of qualified wages in the fifth year of*
12 *employment.*

13 *(B) The credit shall be allowed only with respect to qualified*
14 *wages paid for each net increase in qualified employees. A net*
15 *increase shall be determined by subtracting from the amount*
16 *determined in clause (i) the amount determined in clause (ii). For*
17 *purposes of this subparagraph, “qualified employees” means*
18 *qualified disadvantaged individuals and qualified displaced*
19 *employees.*

20 *(i) The total number of qualified employees employed in the*
21 *state in the preceding taxable year by the qualified taxpayer and*
22 *by any trade or business acquired by the qualified taxpayer during*
23 *the preceding taxable year.*

24 *(ii) The total number of qualified employees employed in the*
25 *state in the current taxable year by the qualified taxpayer and by*
26 *any trade or business acquired by the qualified taxpayer during*
27 *the current taxable year.*

28 *(C) If a qualified taxpayer relocated to a targeted tax area from*
29 *within the state during the taxable year for which the credit is*
30 *claimed, the qualified taxpayer shall be allowed a credit with*
31 *respect to qualified wages for each net increase in qualified*
32 *employees only if the qualified taxpayer makes each employee at*
33 *the previous location or locations a written bona fide offer of*
34 *employment at the new location.*

35 *(b) For purposes of this section:*

36 *(1) “Qualified wages” means:*

37 *(A) That portion of wages paid or incurred by the employer*
38 *during the taxable year to qualified disadvantaged individuals or*
39 *qualified displaced employees that ~~does not exceed 150~~ exceeds*

1 200 percent of the minimum wage and does not exceed 500 percent
2 of the minimum wage.

3 (B) The total amount of qualified wages which may be taken
4 into account for purposes of claiming the credit allowed under this
5 section shall not exceed two million dollars (\$2,000,000) per
6 taxable year.

7 (C) Wages received during the 60-month period beginning with
8 the first day the individual commences employment with the
9 taxpayer. Reemployment in connection with any increase, including
10 a regularly occurring seasonal increase, in the trade or business
11 operations of the qualified taxpayer does not constitute
12 commencement of employment for purposes of this section.

13 (D) Qualified wages do not include any wages paid or incurred
14 by the qualified taxpayer on or after the LAMBRA expiration date.
15 However, wages paid or incurred with respect to qualified
16 disadvantaged individuals or qualified displaced employees who
17 are employed by the qualified taxpayer within the LAMBRA within
18 the 60-month period prior to the LAMBRA expiration date shall
19 continue to qualify for the credit under this section after the
20 LAMBRA expiration date, in accordance with all provisions of
21 this section applied as if the LAMBRA designation were still in
22 existence and binding.

23 (2) “Minimum wage” means the wage established by the
24 Industrial Welfare Commission as provided for in Chapter 1
25 (commencing with Section 1171) of Part 4 of Division 2 of the
26 Labor Code.

27 (3) “LAMBRA” means a local agency military base recovery
28 area designated in accordance with Section 7114 of the Government
29 Code.

30 (4) “Qualified disadvantaged individual” means an individual
31 who satisfies all of the following requirements:

32 (A) (i) At least 90 percent of whose services for the taxpayer
33 during the taxable year are directly related to the conduct of the
34 taxpayer’s trade or business located in a LAMBRA.

35 (ii) Who performs at least 50 percent of his or her services for
36 the taxpayer during the taxable year in the LAMBRA.

37 (B) Who is hired by the employer after the designation of the
38 area as a LAMBRA in which the individual’s services were
39 primarily performed.

1 (C) Who is any of the following immediately preceding the
2 individual's commencement of employment with the taxpayer:

3 (i) An individual who has been determined eligible for services
4 under the federal Job Training Partnership Act (29 U.S.C. Sec.
5 1501 et seq.).

6 (ii) Any voluntary or mandatory registrant under the Greater
7 Avenues for Independence Act of 1985 as provided pursuant to
8 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
9 3 of Division 9 of the Welfare and Institutions Code.

10 (iii) An economically disadvantaged individual age 16 years or
11 older.

12 (iv) A dislocated worker who meets any of the following
13 conditions:

14 (I) Has been terminated or laid off or who has received a notice
15 of termination or layoff from employment, is eligible for or has
16 exhausted entitlement to unemployment insurance benefits, and
17 is unlikely to return to his or her previous industry or occupation.

18 (II) Has been terminated or has received a notice of termination
19 of employment as a result of any permanent closure or any
20 substantial layoff at a plant, facility, or enterprise, including an
21 individual who has not received written notification but whose
22 employer has made a public announcement of the closure or layoff.

23 (III) Is long-term unemployed and has limited opportunities for
24 employment or reemployment in the same or a similar occupation
25 in the area in which the individual resides, including an individual
26 55 years of age or older who may have substantial barriers to
27 employment by reason of age.

28 (IV) Was self-employed (including farmers and ranchers) and
29 is unemployed as a result of general economic conditions in the
30 community in which he or she resides or because of natural
31 disasters.

32 (V) Was a civilian employee of the Department of Defense
33 employed at a military installation being closed or realigned under
34 the Defense Base Closure and Realignment Act of 1990.

35 (VI) Was an active member of the Armed Forces or National
36 Guard as of September 30, 1990, and was either involuntarily
37 separated or separated pursuant to a special benefits program.

38 (VII) Experiences chronic seasonal unemployment and
39 underemployment in the agriculture industry, aggravated by
40 continual advancements in technology and mechanization.

1 (VIII) Has been terminated or laid off or has received a notice
2 of termination or layoff as a consequence of compliance with the
3 Clean Air Act.

4 (v) An individual who is enrolled in or has completed a state
5 rehabilitation plan or is a service-connected disabled veteran,
6 veteran of the Vietnam era, or veteran who is recently separated
7 from military service.

8 (vi) An ex-offender. An individual shall be treated as convicted
9 if he or she was placed on probation by a state court without a
10 finding of guilty.

11 (vii) A recipient of:

12 (I) Federal Supplemental Security Income benefits.

13 (II) Aid to Families with Dependent Children.

14 (III) CalFresh benefits.

15 (IV) State and local general assistance.

16 (viii) Is a member of a federally recognized Indian tribe, band,
17 or other group of Native American descent.

18 (5) “Qualified taxpayer” means a taxpayer or partnership that
19 conducts a trade or business within a LAMBRA and, for the first
20 two taxable years, has a net increase in jobs (defined as 2,000 paid
21 hours per employee per year) of one or more employees in the
22 LAMBRA.

23 (A) The net increase in the number of jobs shall be determined
24 by subtracting the total number of full-time employees (defined
25 as 2,000 paid hours per employee per year) the taxpayer employed
26 in this state in the taxable year prior to commencing business
27 operations in the LAMBRA from the total number of full-time
28 employees the taxpayer employed in this state during the second
29 taxable year after commencing business operations in the
30 LAMBRA. For taxpayers who commence doing business in this
31 state with their LAMBRA business operation, the number of
32 employees for the taxable year prior to commencing business
33 operations in the LAMBRA shall be zero. If the taxpayer has a net
34 increase in jobs in the state, the credit shall be allowed only if one
35 or more full-time employees is employed within the LAMBRA.

36 (B) The total number of employees employed in the LAMBRA
37 shall equal the sum of both of the following:

38 (i) The total number of hours worked in the LAMBRA for the
39 taxpayer by employees (not to exceed 2,000 hours per employee)
40 who are paid an hourly wage divided by 2,000.

1 (ii) The total number of months worked in the LAMBRA for
2 the taxpayer by employees who are salaried employees divided
3 by 12.

4 (C) In the case of a taxpayer who first commences doing
5 business in the LAMBRA during the taxable year, for purposes of
6 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
7 “2,000” and “12” shall be multiplied by a fraction, the numerator
8 of which is the number of months of the taxable year that the
9 taxpayer was doing business in the LAMBRA and the denominator
10 of which is 12.

11 (D) *“Qualified taxpayer” shall not include employers that*
12 *provide temporary help services, as described in Code 561320 of*
13 *the North American Industry Classification System (NAICS).*

14 (6) “Qualified displaced employee” means an individual who
15 satisfies all of the following requirements:

16 (A) Any civilian or military employee of a base or former base
17 who has been displaced as a result of a federal base closure act.

18 (B) (i) At least 90 percent of whose services for the taxpayer
19 during the taxable year are directly related to the conduct of the
20 taxpayer’s trade or business located in a LAMBRA.

21 (ii) Who performs at least 50 percent of his or her services for
22 the taxpayer during the taxable year in a LAMBRA.

23 (C) Who is hired by the employer after the designation of the
24 area in which services were performed as a LAMBRA.

25 (7) “Seasonal employment” means employment by a qualified
26 taxpayer that has regular and predictable substantial reductions in
27 trade or business operations.

28 (8) “LAMBRA expiration date” means the date the LAMBRA
29 designation expires, is no longer binding, or becomes inoperative.

30 (c) For qualified disadvantaged individuals or qualified displaced
31 employees hired on or after January 1, 2001, the taxpayer shall do
32 both of the following:

33 (1) Obtain from the Employment Development Department, as
34 permitted by federal law, the local county or city Job Training
35 Partnership Act administrative entity, the local county GAIN office
36 or social services agency, or the local government administering
37 the LAMBRA, a certification that provides that a qualified
38 disadvantaged individual or qualified displaced employee meets
39 the eligibility requirements specified in subparagraph (C) of
40 paragraph (4) of subdivision (b) or subparagraph (A) of paragraph

(6) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates pursuant to Section 7114.2 of the Government Code and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it ~~upon request~~ to the Franchise Tax Board *annually*.

(d) (1) For purposes of this section, both of the following apply:

(A) All employees of trades or businesses that are under common control shall be treated as employed by a single employer.

(B) The credit (if any) allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

The regulations prescribed under this paragraph shall be based on principles similar to the principles that apply in the case of controlled groups of corporations as specified in subdivision (e) of Section 23622.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any employee, with respect to whom qualified wages are taken into account under subdivision (a), is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount (determined under those regulations) equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into

1 account under subdivision (a), is not continued by the qualified
2 taxpayer for a period of 270 days of employment during the
3 60-month period beginning with the day the qualified
4 disadvantaged individual commences seasonal employment with
5 the qualified taxpayer, the tax imposed by this part, for the taxable
6 year that includes the 60th month following the month in which
7 the qualified disadvantaged individual commences seasonal
8 employment with the qualified taxpayer, shall be increased by an
9 amount equal to the credit allowed under subdivision (a) for that
10 taxable year and all prior taxable years attributable to qualified
11 wages paid or incurred with respect to that qualified disadvantaged
12 individual.

13 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
14 any of the following:

15 (i) A termination of employment of an employee who voluntarily
16 leaves the employment of the taxpayer.

17 (ii) A termination of employment of an individual who, before
18 the close of the period referred to in subparagraph (A) of paragraph
19 (1), becomes disabled to perform the services of that employment,
20 unless that disability is removed before the close of that period
21 and the taxpayer fails to offer reemployment to that individual.

22 (iii) A termination of employment of an individual, if it is
23 determined that the termination was due to the misconduct (as
24 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
25 the California Code of Regulations) of that individual.

26 (iv) A termination of employment of an individual due to a
27 substantial reduction in the trade or business operations of the
28 taxpayer.

29 (v) A termination of employment of an individual, if that
30 individual is replaced by other qualified employees so as to create
31 a net increase in both the number of employees and the hours of
32 employment.

33 (B) Subparagraph (B) of paragraph (1) shall not apply to any
34 of the following:

35 (i) A failure to continue the seasonal employment of a qualified
36 disadvantaged individual who voluntarily fails to return to the
37 seasonal employment of the qualified taxpayer.

38 (ii) A failure to continue the seasonal employment of a qualified
39 disadvantaged individual who, before the close of the period
40 referred to in subparagraph (B) of paragraph (1), becomes disabled

1 and unable to perform the services of that seasonal employment,
2 unless that disability is removed before the close of that period
3 and the qualified taxpayer fails to offer seasonal employment to
4 that individual.

5 (iii) A failure to continue the seasonal employment of a qualified
6 disadvantaged individual, if it is determined that the failure to
7 continue the seasonal employment was due to the misconduct (as
8 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
9 the California Code of Regulations) of that qualified disadvantaged
10 individual.

11 (iv) A failure to continue seasonal employment of a qualified
12 disadvantaged individual due to a substantial reduction in the
13 regular seasonal trade or business operations of the qualified
14 taxpayer.

15 (v) A failure to continue the seasonal employment of a qualified
16 disadvantaged individual, if that individual is replaced by other
17 qualified displaced employees so as to create a net increase in both
18 the number of seasonal employees and the hours of seasonal
19 employment.

20 (C) For purposes of paragraph (1), the employment relationship
21 between the taxpayer and an employee shall not be treated as
22 terminated by reason of a mere change in the form of conducting
23 the trade or business of the taxpayer, if the employee continues to
24 be employed in that trade or business and the taxpayer retains a
25 substantial interest in that trade or business.

26 (3) Any increase in tax under paragraph (1) shall not be treated
27 as tax imposed by this part for purposes of determining the amount
28 of any credit allowable under this part.

29 (4) At the close of the second taxable year, if the taxpayer has
30 not increased the number of its employees as determined by
31 paragraph (5) of subdivision (b), then the amount of the credit
32 previously claimed shall be added to the taxpayer's net tax for the
33 taxpayer's second taxable year.

34 (f) In the case of an estate or trust, both of the following apply:

35 (1) The qualified wages for any taxable year shall be apportioned
36 between the estate or trust and the beneficiaries on the basis of the
37 income of the estate or trust allocable to each.

38 (2) Any beneficiary to whom any qualified wages have been
39 apportioned under paragraph (1) shall be treated (for purposes of
40 this part) as the employer with respect to those wages.

1 (g) The credit shall be reduced by the credit allowed under
2 Section 17053.7. The credit shall also be reduced by the federal
3 credit allowed under Section 51 of the Internal Revenue Code.

4 In addition, any deduction otherwise allowed under this part for
5 the wages or salaries paid or incurred by the taxpayer upon which
6 the credit is based shall be reduced by the amount of the credit,
7 prior to any reduction required by subdivision (h) or (i).

8 (h) In the case where the credit otherwise allowed under this
9 section exceeds the “net tax” for the taxable year, that portion of
10 the credit that exceeds the “net tax” may be carried over and added
11 to the credit, if any, in succeeding years, until the credit is
12 exhausted. The credit shall be applied first to the earliest taxable
13 years possible.

14 (i) (1) The amount of credit otherwise allowed under this section
15 and Section 17053.45, including prior year credit carryovers, that
16 may reduce the “net tax” for the taxable year shall not exceed the
17 amount of tax that would be imposed on the taxpayer’s business
18 income attributed to a LAMBRA determined as if that attributed
19 income represented all of the net income of the taxpayer subject
20 to tax under this part.

21 (2) Attributable income shall be that portion of the taxpayer’s
22 California source business income that is apportioned to the
23 LAMBRA. For that purpose, the taxpayer’s business income that
24 is attributable to sources in this state first shall be determined in
25 accordance with Chapter 17 (commencing with Section 25101) of
26 Part 11. That business income shall be further apportioned to the
27 LAMBRA in accordance with Article 2 (commencing with Section
28 25120) of Chapter 17 of Part 11, modified for purposes of this
29 section in accordance with paragraph (3).

30 (3) Income shall be apportioned to a LAMBRA by multiplying
31 the total California business income of the taxpayer by a fraction,
32 the numerator of which is the property factor plus the payroll factor,
33 and the denominator of which is two. For purposes of this
34 paragraph:

35 (A) The property factor is a fraction, the numerator of which is
36 the average value of the taxpayer’s real and tangible personal
37 property owned or rented and used in the LAMBRA during the
38 taxable year, and the denominator of which is the average value
39 of all the taxpayer’s real and tangible personal property owned or
40 rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “net tax” for the taxable year, as provided in subdivision (h).

(j) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(k) (1) For each taxable year beginning on or after January 1, 2013, and before January 1, 2019, the total aggregate amount of credits allowed pursuant to this section shall not exceed the total aggregate amount of credits claimed pursuant to this section in the taxable year beginning on or after January 1, 2012, and before January 1, 2013, as determined by the Franchise Tax Board.

(2) Upon receipt of a timely filed original return, the Franchise Tax Board shall allocate the credit to the qualified taxpayer on a first-come-first-served basis.

(l) (1) The Franchise Tax Board shall compile the certifications submitted pursuant to paragraph (2) of subdivision (c) and shall provide as a searchable database on its Internet Web site, for each taxable year beginning on or after January 1, 2013, and before January 1, 2019, the employer names, amounts of tax credit claimed, and number of new jobs created for each taxable year pursuant to this section, Sections 17053.34, 17053.47, 17053.74, 23622.7, 23622.8, 23634, and 23646.

(2) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section.

(m) This section shall remain in effect only until December 1, 2019, and as of that date is repealed.

SEC. 4. Section 17053.47 of the Revenue and Taxation Code is amended to read:

17053.47. (a) (1) For each taxable year beginning on or after January 1, 1998, and before January 1, 2013, there shall be allowed

1 a credit against the “net tax” (as defined in Section 17039) to a
2 qualified taxpayer for hiring a qualified disadvantaged individual
3 during the taxable year for employment in the manufacturing
4 enhancement area. The credit shall be equal to the sum of each of
5 the following:

6 ~~(1)~~

7 (A) Fifty percent of the qualified wages in the first year of
8 employment.

9 ~~(2)~~

10 (B) Forty percent of the qualified wages in the second year of
11 employment.

12 ~~(3)~~

13 (C) Thirty percent of the qualified wages in the third year of
14 employment.

15 ~~(4)~~

16 (D) Twenty percent of the qualified wages in the fourth year of
17 employment.

18 ~~(5)~~

19 (E) Ten percent of the qualified wages in the fifth year of
20 employment.

21 (2) (A) *For each taxable year beginning on or after January*
22 *1, 2013, and before January 1, 2019, there shall be allowed as a*
23 *credit against the “net tax,” as defined in Section 17039, to a*
24 *qualified taxpayer for hiring a qualified disadvantaged individual*
25 *during the taxable year for employment in the manufacturing*
26 *enhancement area. The credit shall be equal to the sum of each of*
27 *the following:*

28 *(i) Ten percent of qualified wages in the first year of*
29 *employment.*

30 *(ii) Ten percent of qualified wages in the second year of*
31 *employment.*

32 *(iii) Thirty percent of qualified wages in the third year of*
33 *employment.*

34 *(iv) Forty percent of qualified wages in the fourth year of*
35 *employment.*

36 *(v) Fifty percent of qualified wages in the fifth year of*
37 *employment.*

38 (B) *The credit shall be allowed only with respect to qualified*
39 *wages paid for each net increase in qualified employees. A net*
40 *increase shall be determined by subtracting from the amount*

1 *determined in clause (i) the amount determined in clause (ii). For*
2 *purposes of this subparagraph, “qualified employee” means*
3 *qualified disadvantaged individual.*

4 *(i) The total number of qualified employees employed in the*
5 *state in the preceding taxable year by the qualified taxpayer and*
6 *by any trade or business acquired by the qualified taxpayer during*
7 *the preceding taxable year.*

8 *(ii) The total number of qualified employees employed in the*
9 *state in the current taxable year by the qualified taxpayer and by*
10 *any trade or business acquired by the qualified taxpayer during*
11 *the current taxable year.*

12 *(C) If a qualified taxpayer relocated to a targeted tax area from*
13 *within the state during the taxable year for which the credit is*
14 *claimed, the qualified taxpayer shall be allowed a credit with*
15 *respect to qualified wages for each net increase in qualified*
16 *employees only if the qualified taxpayer makes each employee at*
17 *the previous location or locations a written bona fide offer of*
18 *employment at the new location.*

19 *(b) For purposes of this section:*

20 *(1) “Qualified wages” means:*

21 *(A) That portion of wages paid or incurred by the qualified*
22 *taxpayer during the taxable year to qualified disadvantaged*
23 *individuals that ~~does not exceed 150~~ exceeds 200 percent of the*
24 *minimum wage and does not exceed 500 percent of the minimum*
25 *wage.*

26 *(B) The total amount of qualified wages which may be taken*
27 *into account for purposes of claiming the credit allowed under this*
28 *section shall not exceed two million dollars (\$2,000,000) per*
29 *taxable year.*

30 *(C) Wages received during the 60-month period beginning with*
31 *the first day the qualified disadvantaged individual commences*
32 *employment with the qualified taxpayer. Reemployment in*
33 *connection with any increase, including a regularly occurring*
34 *seasonal increase, in the trade or business operations of the taxpayer*
35 *does not constitute commencement of employment for purposes*
36 *of this section.*

37 *(D) Qualified wages do not include any wages paid or incurred*
38 *by the qualified taxpayer on or after the manufacturing*
39 *enhancement area expiration date. However, wages paid or incurred*
40 *with respect to qualified employees who are employed by the*

1 qualified taxpayer within the manufacturing enhancement area
2 within the 60-month period prior to the manufacturing enhancement
3 area expiration date shall continue to qualify for the credit under
4 this section after the manufacturing enhancement area expiration
5 date, in accordance with all provisions of this section applied as
6 if the manufacturing enhancement area designation were still in
7 existence and binding.

8 (2) “Minimum wage” means the wage established by the
9 Industrial Welfare Commission as provided for in Chapter 1
10 (commencing with Section 1171) of Part 4 of Division 2 of the
11 Labor Code.

12 (3) “Manufacturing enhancement area” means an area designated
13 pursuant to Section 7073.8 of the Government Code according to
14 the procedures of Chapter 12.8 (commencing with Section 7070)
15 of Division 7 of Title 1 of the Government Code.

16 (4) “Manufacturing enhancement area expiration date” means
17 the date the manufacturing enhancement area designation expires,
18 is no longer binding, or becomes inoperative.

19 (5) “Qualified disadvantaged individual” means an individual
20 who satisfies all of the following requirements:

21 (A) (i) At least 90 percent of whose services for the qualified
22 taxpayer during the taxable year are directly related to the conduct
23 of the qualified taxpayer’s trade or business located in a
24 manufacturing enhancement area.

25 (ii) Who performs at least 50 percent of his or her services for
26 the qualified taxpayer during the taxable year in the manufacturing
27 enhancement area.

28 (B) Who is hired by the qualified taxpayer after the designation
29 of the area as a manufacturing enhancement area in which the
30 individual’s services were primarily performed.

31 (C) Who is any of the following immediately preceding the
32 individual’s commencement of employment with the qualified
33 taxpayer:

34 (i) An individual who has been determined eligible for services
35 under the federal Job Training Partnership Act (29 U.S.C. Sec.
36 1501 et seq.), or its successor.

37 (ii) Any voluntary or mandatory registrant under the Greater
38 Avenues for Independence Act of 1985, or its successor, as
39 provided pursuant to Article 3.2 (commencing with Section 11320)

1 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
2 Code.

3 (iii) Any individual who has been certified eligible by the
4 Employment Development Department under the federal Targeted
5 Jobs Tax Credit Program, or its successor, whether or not this
6 program is in effect.

7 (6) (A) “Qualified taxpayer” means any taxpayer engaged in
8 a trade or business within a manufacturing enhancement area
9 designated pursuant to Section 7073.8 of the Government Code
10 and who meets all of the following requirements:

11 (A)
12 (i) Is engaged in those lines of business described in Codes 0211
13 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999, inclusive,
14 of the Standard Industrial Classification (SIC) Manual published
15 by the United States Office of Management and Budget, 1987
16 edition.

17 (B)
18 (ii) At least 50 percent of the qualified taxpayer’s workforce
19 hired after the designation of the manufacturing enhancement area
20 is composed of individuals who, at the time of hire, are residents
21 of the county in which the manufacturing enhancement area is
22 located.

23 (C)
24 (iii) Of this percentage of local hires, at least 30 percent shall
25 be qualified disadvantaged individuals.

26 (B) “*Qualified taxpayer*” shall not include employers that
27 provide temporary help services, as described in Code 561320 of
28 the North American Industry Classification System (NAICS).

29 (7) “Seasonal employment” means employment by a qualified
30 taxpayer that has regular and predictable substantial reductions in
31 trade or business operations.

32 (c) (1) For purposes of this section, all of the following apply:

33 (A) All employees of trades or businesses that are under
34 common control shall be treated as employed by a single qualified
35 taxpayer.

36 (B) The credit (if any) allowable by this section with respect to
37 each trade or business shall be determined by reference to its
38 proportionate share of the expense of the qualified wages giving
39 rise to the credit and shall be allocated in that manner.

1 (C) Principles that apply in the case of controlled groups of
2 corporations, as specified in subdivision (d) of Section 23622.7,
3 shall apply with respect to determining employment.

4 (2) If a qualified taxpayer acquires the major portion of a trade
5 or business of another employer (hereinafter in this paragraph
6 referred to as the “predecessor”) or the major portion of a separate
7 unit of a trade or business of a predecessor, then, for purposes of
8 applying this section (other than subdivision (d)) for any calendar
9 year ending after that acquisition, the employment relationship
10 between a qualified disadvantaged individual and a qualified
11 taxpayer shall not be treated as terminated if the qualified
12 disadvantaged individual continues to be employed in that trade
13 or business.

14 (d) (1) (A) If the employment, other than seasonal employment,
15 of any qualified disadvantaged individual, with respect to whom
16 qualified wages are taken into account under subdivision (b) is
17 terminated by the qualified taxpayer at any time during the first
18 270 days of that employment (whether or not consecutive) or before
19 the close of the 270th calendar day after the day in which that
20 qualified disadvantaged individual completes 90 days of
21 employment with the qualified taxpayer, the tax imposed by this
22 part for the taxable year in which that employment is terminated
23 shall be increased by an amount equal to the credit allowed under
24 subdivision (a) for that taxable year and all prior taxable years
25 attributable to qualified wages paid or incurred with respect to that
26 qualified disadvantaged individual.

27 (B) If the seasonal employment of any qualified disadvantaged
28 individual, with respect to whom qualified wages are taken into
29 account under subdivision (a) is not continued by the qualified
30 taxpayer for a period of 270 days of employment during the
31 60-month period beginning with the day the qualified
32 disadvantaged individual commences seasonal employment with
33 the qualified taxpayer, the tax imposed by this part, for the taxable
34 year that includes the 60th month following the month in which
35 the qualified disadvantaged individual commences seasonal
36 employment with the qualified taxpayer, shall be increased by an
37 amount equal to the credit allowed under subdivision (a) for that
38 taxable year and all prior taxable years attributable to qualified
39 wages paid or incurred with respect to that qualified disadvantaged
40 individual.

(2) (A) Subparagraph (A) of paragraph (1) does not apply to any of the following:

(i) A termination of employment of a qualified disadvantaged individual who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of a qualified disadvantaged individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of a qualified disadvantaged individual due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of a qualified disadvantaged individual, if that individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified disadvantaged individual.

(iii) A failure to continue the seasonal employment of a qualified disadvantaged individual, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified disadvantaged individual.

1 (iv) A failure to continue seasonal employment of a qualified
2 disadvantaged individual due to a substantial reduction in the
3 regular seasonal trade or business operations of the qualified
4 taxpayer.

5 (v) A failure to continue the seasonal employment of a qualified
6 disadvantaged individual, if that qualified disadvantaged individual
7 is replaced by other qualified disadvantaged individuals so as to
8 create a net increase in both the number of seasonal employees
9 and the hours of seasonal employment.

10 (C) For purposes of paragraph (1), the employment relationship
11 between the qualified taxpayer and a qualified disadvantaged
12 individual shall not be treated as terminated by reason of a mere
13 change in the form of conducting the trade or business of the
14 qualified taxpayer, if the qualified disadvantaged individual
15 continues to be employed in that trade or business and the qualified
16 taxpayer retains a substantial interest in that trade or business.

17 (3) Any increase in tax under paragraph (1) shall not be treated
18 as tax imposed by this part for purposes of determining the amount
19 of any credit allowable under this part.

20 (e) In the case of an estate or trust, both of the following apply:

21 (1) The qualified wages for any taxable year shall be apportioned
22 between the estate or trust and the beneficiaries on the basis of the
23 income of the estate or trust allocable to each.

24 (2) Any beneficiary to whom any qualified wages have been
25 apportioned under paragraph (1) shall be treated (for purposes of
26 this part) as the employer with respect to those wages.

27 (f) The credit shall be reduced by the credit allowed under
28 Section 17053.7. The credit shall also be reduced by the federal
29 credit allowed under Section 51 of the Internal Revenue Code.

30 In addition, any deduction otherwise allowed under this part for
31 the wages or salaries paid or incurred by the qualified taxpayer
32 upon which the credit is based shall be reduced by the amount of
33 the credit, prior to any reduction required by subdivision (g) or
34 (h).

35 (g) In the case where the credit otherwise allowed under this
36 section exceeds the “net tax” for the taxable year, that portion of
37 the credit that exceeds the “net tax” may be carried over and added
38 to the credit, if any, in succeeding years, until the credit is
39 exhausted. The credit shall be applied first to the earliest taxable
40 years possible.

(h) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce the “net tax” for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer’s business income attributed to a manufacturing enhancement area determined as if that attributed income represented all of the net income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the manufacturing enhancement area. For that purpose, the taxpayer’s business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the manufacturing enhancement area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a manufacturing enhancement area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the manufacturing enhancement area during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the manufacturing enhancement area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “net tax” for the taxable year, as provided in subdivision (g).

(i) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed

1 to the taxpayer under this part with respect to any wage consisting
2 in whole or in part of those qualified wages.

3 (j) The qualified taxpayer shall do both of the following:

4 (1) Obtain from the Employment Development Department, as
5 permitted by federal law, the local county or city Job Training
6 Partnership Act administrative entity, the local county GAIN office
7 or social services agency, or the local government administering
8 the manufacturing enhancement area, a certification that provides
9 that a qualified disadvantaged individual meets the eligibility
10 requirements specified in paragraph (5) of subdivision (b). The
11 Employment Development Department may provide preliminary
12 screening and referral to a certifying agency. The Department of
13 Housing and Community Development shall develop regulations
14 governing the issuance of certificates pursuant to subdivision (d)
15 of Section 7086 of the Government Code and shall develop forms
16 for this purpose.

17 (2) Retain a copy of the certification and provide it ~~upon request~~
18 to the Franchise Tax Board *annually*.

19 (k) (1) *For each taxable year beginning on or after January 1,*
20 *2013, and before January 1, 2019, the total aggregate amount of*
21 *credits allowed pursuant to this section shall not exceed the total*
22 *aggregate amount of credits claimed pursuant to this section in*
23 *the taxable year beginning on or after January 1, 2012, and before*
24 *January 1, 2013, as determined by the Franchise Tax Board.*

25 (2) *Upon receipt of a timely filed original return, the Franchise*
26 *Tax Board shall allocate the credit to the qualified taxpayer on a*
27 *first-come-first-served basis.*

28 (l) (1) *The Franchise Tax Board shall compile the certifications*
29 *submitted pursuant to paragraph (2) of subdivision (j) and shall*
30 *provide as a searchable database on its Internet Web site, for each*
31 *taxable year beginning on or after January 1, 2013, and before*
32 *January 1, 2019, the employer names, amounts of tax credit*
33 *claimed, and number of new jobs created for each taxable year*
34 *pursuant to this section, Sections 17053.34, 17053.46, 17053.74,*
35 *23622.7, 23622.8, 23634, and 23646.*

36 (2) *The Franchise Tax Board may prescribe rules, guidelines,*
37 *or procedures necessary or appropriate to carry out the purposes*
38 *of this section, including any guidelines regarding the allocation*
39 *of the credit allowed under this section.*

(m) *This section shall remain in effect only until December 1, 2019, and as of that date is repealed.*

SEC. 5. *Section 17053.74 of the Revenue and Taxation Code is amended to read:*

17053.74. (a) ~~There~~*(1) For taxable years beginning before January 1, 2013, there shall be allowed a credit against the “net tax” (as defined in Section 17039) to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:*

~~(1)~~
(A) Fifty percent of qualified wages in the first year of employment.

~~(2)~~
(B) Forty percent of qualified wages in the second year of employment.

~~(3)~~
(C) Thirty percent of qualified wages in the third year of employment.

~~(4)~~
(D) Twenty percent of qualified wages in the fourth year of employment.

~~(5)~~
(E) Ten percent of qualified wages in the fifth year of employment.

(2) (A) *For each taxable year beginning on or after January 1, 2013, and before January 1, 2019, there shall be allowed as a credit against the “net tax,” as defined in Section 17039, to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year shall be equal to the sum of each of the following:*

(i) *Ten percent of qualified wages in the first year of employment.*

(ii) *Ten percent of qualified wages in the second year of employment.*

(iii) *Thirty percent of qualified wages in the third year of employment.*

(iv) *Forty percent of qualified wages in the fourth year of employment.*

(v) *Fifty percent of qualified wages in the fifth year of employment.*

1 (B) *The credit shall be allowed only with respect to qualified*
2 *wages paid for each net increase in qualified employees. A net*
3 *increase shall be determined by subtracting from the amount*
4 *determined in clause (i) the amount determined in clause (ii).*

5 (i) *The total number of qualified employees employed in the*
6 *state in the preceding taxable year by the taxpayer and by any*
7 *trade or business acquired by the taxpayer during the preceding*
8 *taxable year.*

9 (ii) *The total number of qualified employees employed in the*
10 *state in the current taxable year by the taxpayer and by any trade*
11 *or business acquired by the taxpayer during the current taxable*
12 *year.*

13 (C) *If a taxpayer relocated to a targeted tax area from within*
14 *the state during the taxable year for which the credit is claimed,*
15 *the taxpayer shall be allowed a credit with respect to qualified*
16 *wages for each net increase in qualified employees only if the*
17 *taxpayer makes each employee at the previous location or locations*
18 *a written bona fide offer of employment at the new location.*

19 (b) For purposes of this section:

20 (1) “Qualified wages” means:

21 (A) (i) Except as provided in clause (ii), that portion of wages
22 paid or incurred by the taxpayer during the taxable year to qualified
23 employees ~~that does not exceed 150~~ *exceeds 200 percent of the*
24 *minimum wage and does not exceed 500 percent of the minimum*
25 *wage.*

26 (ii) For up to 1,350 qualified employees who are employed by
27 the taxpayer in the Long Beach Enterprise Zone in aircraft
28 manufacturing activities described in Codes 3721 to 3728,
29 inclusive, and Code 3812 of the Standard Industrial Classification
30 (SIC) Manual published by the United States Office of
31 Management and Budget, 1987 edition, “qualified wages” means
32 that portion of hourly wages that does not exceed 202 percent of
33 the minimum wage.

34 (B) Wages received during the 60-month period beginning with
35 the first day the employee commences employment with the
36 taxpayer. Reemployment in connection with any increase, including
37 a regularly occurring seasonal increase, in the trade or business
38 operations of the taxpayer does not constitute commencement of
39 employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Zone expiration date” means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer’s trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

1 (III) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was an
3 economically disadvantaged individual 14 years of age or older.

4 (IV) Immediately preceding the qualified employee's
5 commencement of employment with the taxpayer, was a dislocated
6 worker who meets any of the following:

7 (aa) Has been terminated or laid off or who has received a notice
8 of termination or layoff from employment, is eligible for or has
9 exhausted entitlement to unemployment insurance benefits, and
10 is unlikely to return to his or her previous industry or occupation.

11 (bb) Has been terminated or has received a notice of termination
12 of employment as a result of any permanent closure or any
13 substantial layoff at a plant, facility, or enterprise, including an
14 individual who has not received written notification but whose
15 employer has made a public announcement of the closure or layoff.

16 (cc) Is long-term unemployed and has limited opportunities for
17 employment or reemployment in the same or a similar occupation
18 in the area in which the individual resides, including an individual
19 55 years of age or older who may have substantial barriers to
20 employment by reason of age.

21 (dd) Was self-employed (including farmers and ranchers) and
22 is unemployed as a result of general economic conditions in the
23 community in which he or she resides or because of natural
24 disasters.

25 (ee) Was a civilian employee of the Department of Defense
26 employed at a military installation being closed or realigned under
27 the Defense Base Closure and Realignment Act of 1990.

28 (ff) Was an active member of the armed forces or National
29 Guard as of September 30, 1990, and was either involuntarily
30 separated or separated pursuant to a special benefits program.

31 (gg) Is a seasonal or migrant worker who experiences chronic
32 seasonal unemployment and underemployment in the agriculture
33 industry, aggravated by continual advancements in technology and
34 mechanization.

35 (hh) Has been terminated or laid off, or has received a notice
36 of termination or layoff, as a consequence of compliance with the
37 Clean Air Act.

38 (V) Immediately preceding the qualified employee's
39 commencement of employment with the taxpayer, was a disabled
40 individual who is eligible for or enrolled in, or has completed a

1 state rehabilitation plan or is a service-connected disabled veteran,
2 veteran of the Vietnam era, or veteran who is recently separated
3 from military service.

4 (VI) Immediately preceding the qualified employee's
5 commencement of employment with the taxpayer, was an
6 ex-offender. An individual shall be treated as convicted if he or
7 she was placed on probation by a state court without a finding of
8 guilt.

9 (VII) Immediately preceding the qualified employee's
10 commencement of employment with the taxpayer, was a person
11 eligible for or a recipient of any of the following:

12 (aa) Federal Supplemental Security Income benefits.

13 (bb) Aid to Families with Dependent Children.

14 (cc) CalFresh benefits.

15 (dd) State and local general assistance.

16 (VIII) Immediately preceding the qualified employee's
17 commencement of employment with the taxpayer, was a member
18 of a federally recognized Indian tribe, band, or other group of
19 Native American descent.

20 (IX) Immediately preceding the qualified employee's
21 commencement of employment with the taxpayer, was a resident
22 of a targeted employment area, as defined in Section 7072 of the
23 Government Code.

24 (X) An employee who qualified the taxpayer for the enterprise
25 zone hiring credit under former Section 17053.8 or the program
26 area hiring credit under former Section 17053.11.

27 (XI) Immediately preceding the qualified employee's
28 commencement of employment with the taxpayer, was a member
29 of a targeted group, as defined in Section 51(d) of the Internal
30 Revenue Code, or its successor.

31 (B) Priority for employment shall be provided to an individual
32 who is enrolled in a qualified program under the federal Job
33 Training Partnership Act or the Greater Avenues for Independence
34 Act of 1985 or who is eligible as a member of a targeted group
35 under the Work Opportunity Tax Credit (Section 51 of the Internal
36 Revenue Code), or its successor.

37 (5) (a) "Taxpayer" means a person or entity engaged in a trade
38 or business within an enterprise zone designated pursuant to
39 Chapter 12.8 (commencing with Section 7070) of the Government
40 Code.

1 (b) “Taxpayer” shall not include employers that provide
2 temporary help services, as described in Code 561320 of the North
3 American Industry Classification System (NAICS).

4 (6) “Seasonal employment” means employment by a taxpayer
5 that has regular and predictable substantial reductions in trade or
6 business operations.

7 (c) The taxpayer shall do both of the following:

8 (1) Obtain from the Employment Development Department, as
9 permitted by federal law, the local county or city Job Training
10 Partnership Act administrative entity, the local county GAIN office
11 or social services agency, or the local government administering
12 the enterprise zone, a certification which provides that a qualified
13 employee meets the eligibility requirements specified in clause
14 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
15 Employment Development Department may provide preliminary
16 screening and referral to a certifying agency. The Employment
17 Development Department shall develop a form for this purpose.
18 The Department of Housing and Community Development shall
19 develop regulations governing the issuance of certificates by local
20 governments pursuant to subdivision (a) of Section 7086 of the
21 Government Code.

22 (2) Retain a copy of the certification and provide it ~~upon request~~
23 to the Franchise Tax Board *annually*.

24 (d) (1) For purposes of this section:

25 (A) All employees of trades or businesses, which are not
26 incorporated, that are under common control shall be treated as
27 employed by a single taxpayer.

28 (B) The credit, if any, allowable by this section with respect to
29 each trade or business shall be determined by reference to its
30 proportionate share of the expense of the qualified wages giving
31 rise to the credit, and shall be allocated in that manner.

32 (C) Principles that apply in the case of controlled groups of
33 corporations, as specified in subdivision (d) of Section 23622.7,
34 shall apply with respect to determining employment.

35 (2) If an employer acquires the major portion of a trade or
36 business of another employer (hereinafter in this paragraph referred
37 to as the “predecessor”) or the major portion of a separate unit of
38 a trade or business of a predecessor, then, for purposes of applying
39 this section (other than subdivision (e)) for any calendar year
40 ending after that acquisition, the employment relationship between

1 a qualified employee and an employer shall not be treated as
2 terminated if the employee continues to be employed in that trade
3 or business.

4 (e) (1) (A) If the employment, other than seasonal employment,
5 of any qualified employee, with respect to whom qualified wages
6 are taken into account under subdivision (a), is terminated by the
7 taxpayer at any time during the first 270 days of that employment
8 (whether or not consecutive) or before the close of the 270th
9 calendar day after the day in which that employee completes 90
10 days of employment with the taxpayer, the tax imposed by this
11 part for the taxable year in which that employment is terminated
12 shall be increased by an amount equal to the credit allowed under
13 subdivision (a) for that taxable year and all prior taxable years
14 attributable to qualified wages paid or incurred with respect to that
15 employee.

16 (B) If the seasonal employment of any qualified employee, with
17 respect to whom qualified wages are taken into account under
18 subdivision (a), is not continued by the taxpayer for a period of
19 270 days of employment during the 60-month period beginning
20 with the day the qualified employee commences seasonal
21 employment with the taxpayer, the tax imposed by this part, for
22 the taxable year that includes the 60th month following the month
23 in which the qualified employee commences seasonal employment
24 with the taxpayer, shall be increased by an amount equal to the
25 credit allowed under subdivision (a) for that taxable year and all
26 prior taxable years attributable to qualified wages paid or incurred
27 with respect to that qualified employee.

28 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
29 any of the following:

30 (i) A termination of employment of a qualified employee who
31 voluntarily leaves the employment of the taxpayer.

32 (ii) A termination of employment of a qualified employee who,
33 before the close of the period referred to in paragraph (1), becomes
34 disabled and unable to perform the services of that employment,
35 unless that disability is removed before the close of that period
36 and the taxpayer fails to offer reemployment to that employee.

37 (iii) A termination of employment of a qualified employee, if
38 it is determined that the termination was due to the misconduct (as
39 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
40 the California Code of Regulations) of that employee.

1 (iv) A termination of employment of a qualified employee due
2 to a substantial reduction in the trade or business operations of the
3 taxpayer.

4 (v) A termination of employment of a qualified employee, if
5 that employee is replaced by other qualified employees so as to
6 create a net increase in both the number of employees and the
7 hours of employment.

8 (B) Subparagraph (B) of paragraph (1) shall not apply to any
9 of the following:

10 (i) A failure to continue the seasonal employment of a qualified
11 employee who voluntarily fails to return to the seasonal
12 employment of the taxpayer.

13 (ii) A failure to continue the seasonal employment of a qualified
14 employee who, before the close of the period referred to in
15 subparagraph (B) of paragraph (1), becomes disabled and unable
16 to perform the services of that seasonal employment, unless that
17 disability is removed before the close of that period and the
18 taxpayer fails to offer seasonal employment to that qualified
19 employee.

20 (iii) A failure to continue the seasonal employment of a qualified
21 employee, if it is determined that the failure to continue the
22 seasonal employment was due to the misconduct (as defined in
23 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
24 Code of Regulations) of that qualified employee.

25 (iv) A failure to continue seasonal employment of a qualified
26 employee due to a substantial reduction in the regular seasonal
27 trade or business operations of the taxpayer.

28 (v) A failure to continue the seasonal employment of a qualified
29 employee, if that qualified employee is replaced by other qualified
30 employees so as to create a net increase in both the number of
31 seasonal employees and the hours of seasonal employment.

32 (C) For purposes of paragraph (1), the employment relationship
33 between the taxpayer and a qualified employee shall not be treated
34 as terminated by reason of a mere change in the form of conducting
35 the trade or business of the taxpayer, if the qualified employee
36 continues to be employed in that trade or business and the taxpayer
37 retains a substantial interest in that trade or business.

38 (3) Any increase in tax under paragraph (1) shall not be treated
39 as tax imposed by this part for purposes of determining the amount
40 of any credit allowable under this part.

(f) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(g) For purposes of this section, “enterprise zone” means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 17053.10, 17053.17, and 17053.46 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the “net tax” for the taxable year, that portion of the credit that exceeds the “net tax” may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 17053.70, including any credit carryover from prior years, that may reduce the “net tax” for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer’s business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with

1 Section 25120) of Chapter 17 of Part 11, modified for purposes
2 of this section in accordance with paragraph (3).

3 (3) Business income shall be apportioned to the enterprise zone
4 by multiplying the total California business income of the taxpayer
5 by a fraction, the numerator of which is the property factor plus
6 the payroll factor, and the denominator of which is two. For
7 purposes of this paragraph:

8 (A) The property factor is a fraction, the numerator of which is
9 the average value of the taxpayer's real and tangible personal
10 property owned or rented and used in the enterprise zone during
11 the taxable year, and the denominator of which is the average value
12 of all the taxpayer's real and tangible personal property owned or
13 rented and used in this state during the taxable year.

14 (B) The payroll factor is a fraction, the numerator of which is
15 the total amount paid by the taxpayer in the enterprise zone during
16 the taxable year for compensation, and the denominator of which
17 is the total compensation paid by the taxpayer in this state during
18 the taxable year.

19 (4) The portion of any credit remaining, if any, after application
20 of this subdivision, shall be carried over to succeeding taxable
21 years, as if it were an amount exceeding the "net tax" for the
22 taxable year, as provided in subdivision (i).

23 (k) ~~The changes made to this section by the act adding this~~
24 ~~subdivision Chapter 609 by the Statutes of 1997 shall apply to~~
25 ~~taxable years beginning on or after January 1, 1997.~~

26 (l) *The Franchise Tax Board shall compile the certifications*
27 *submitted pursuant to paragraph (2) of subdivision (c) and shall*
28 *provide as a searchable database on its Internet Web site, for each*
29 *taxable year beginning on or after January 1, 2013, and before*
30 *January 1, 2019, the employer names, amounts of tax credit*
31 *claimed, and number of new jobs created for each taxable year*
32 *pursuant to this section, Sections 17053.34, 17053.46, 17053.47,*
33 *23622.7, 23622.8, 23634, and 23646.*

34 (m) *This section shall remain in effect only until December 1,*
35 *2019, and as of that date is repealed.*

36 SEC. 6. *Section 23622.7 of the Revenue and Taxation Code is*
37 *amended to read:*

38 23622.7. (a) ~~There~~(1) *For taxable years before January 1,*
39 *2013, there shall be allowed a credit against the "tax" (as defined*
40 *by Section 23036) to a taxpayer who employs a qualified employee*

1 in an enterprise zone during the taxable year. The credit shall be
2 equal to the sum of each of the following:

3 ~~(1)~~

4 (A) Fifty percent of qualified wages in the first year of
5 employment.

6 ~~(2)~~

7 (B) Forty percent of qualified wages in the second year of
8 employment.

9 ~~(3)~~

10 (C) Thirty percent of qualified wages in the third year of
11 employment.

12 ~~(4)~~

13 (D) Twenty percent of qualified wages in the fourth year of
14 employment.

15 ~~(5)~~

16 (E) Ten percent of qualified wages in the fifth year of
17 employment.

18 (2) (A) *For each taxable year beginning on or after January*
19 *1, 2013, and before January 1, 2019, there shall be allowed as a*
20 *credit against the “net tax,” as defined in Section 23036, to a*
21 *taxpayer who employs a qualified employee in an enterprise zone*
22 *during the taxable year shall be equal to the sum of each of the*
23 *following:*

24 *(i) Ten percent of qualified wages in the first year of*
25 *employment.*

26 *(ii) Ten percent of qualified wages in the second year of*
27 *employment.*

28 *(iii) Thirty percent of qualified wages in the third year of*
29 *employment.*

30 *(iv) Forty percent of qualified wages in the fourth year of*
31 *employment.*

32 *(v) Fifty percent of qualified wages in the fifth year of*
33 *employment.*

34 *(B) The credit shall be allowed only with respect to qualified*
35 *wages paid for each net increase in qualified employees. A net*
36 *increase shall be determined by subtracting from the amount*
37 *determined in clause (i) the amount determined in clause (ii).*

38 *(i) The total number of qualified employees employed in the*
39 *state in the preceding taxable year by the taxpayer and by any*

1 *trade or business acquired by the taxpayer during the preceding*
2 *taxable year.*

3 *(ii) The total number of qualified employees employed in the*
4 *state in the current taxable year by the taxpayer and by any trade*
5 *or business acquired by the taxpayer during the current taxable*
6 *year.*

7 *(C) If a taxpayer relocated to a targeted tax area from within*
8 *the state during the taxable year for which the credit is claimed,*
9 *the taxpayer shall be allowed a credit with respect to qualified*
10 *wages for each net increase in qualified employees only if the*
11 *taxpayer makes each employee at the previous location or locations*
12 *a written bona fide offer of employment at the new location.*

13 (b) For purposes of this section:

14 (1) “Qualified wages” means:

15 (A) (i) Except as provided in clause (ii), that portion of wages
16 paid or incurred by the taxpayer during the taxable year to qualified
17 employees that ~~does not exceed 150~~ *exceeds 200 percent of the*
18 *minimum wage and does not exceed 500 percent of the minimum*
19 *wage.*

20 (ii) For up to 1,350 qualified employees who are employed by
21 the taxpayer in the Long Beach Enterprise Zone in aircraft
22 manufacturing activities described in Codes 3721 to 3728,
23 inclusive, and Code 3812 of the Standard Industrial Classification
24 (SIC) Manual published by the United States Office of
25 Management and Budget, 1987 edition, “qualified wages” means
26 that portion of hourly wages that does not exceed 202 percent of
27 the minimum wage.

28 (B) Wages received during the 60-month period beginning with
29 the first day the employee commences employment with the
30 taxpayer. Reemployment in connection with any increase, including
31 a regularly occurring seasonal increase, in the trade or business
32 operations of the taxpayer does not constitute commencement of
33 employment for purposes of this section.

34 (C) Qualified wages do not include any wages paid or incurred
35 by the taxpayer on or after the zone expiration date. However,
36 wages paid or incurred with respect to qualified employees who
37 are employed by the taxpayer within the enterprise zone within
38 the 60-month period prior to the zone expiration date shall continue
39 to qualify for the credit under this section after the zone expiration
40 date, in accordance with all provisions of this section applied as

1 if the enterprise zone designation were still in existence and
2 binding.

3 (2) “Minimum wage” means the wage established by the
4 Industrial Welfare Commission as provided for in Chapter 1
5 (commencing with Section 1171) of Part 4 of Division 2 of the
6 Labor Code.

7 (3) “Zone expiration date” means the date the enterprise zone
8 designation expires, is no longer binding, or becomes inoperative.

9 (4) (A) “Qualified employee” means an individual who meets
10 all of the following requirements:

11 (i) At least 90 percent of whose services for the taxpayer during
12 the taxable year are directly related to the conduct of the taxpayer’s
13 trade or business located in an enterprise zone.

14 (ii) Performs at least 50 percent of his or her services for the
15 taxpayer during the taxable year in an enterprise zone.

16 (iii) Is hired by the taxpayer after the date of original designation
17 of the area in which services were performed as an enterprise zone.

18 (iv) Is any of the following:

19 (I) Immediately preceding the qualified employee’s
20 commencement of employment with the taxpayer, was a person
21 eligible for services under the federal Job Training Partnership
22 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
23 or is eligible to receive, subsidized employment, training, or
24 services funded by the federal Job Training Partnership Act, or its
25 successor.

26 (II) Immediately preceding the qualified employee’s
27 commencement of employment with the taxpayer, was a person
28 eligible to be a voluntary or mandatory registrant under the Greater
29 Avenues for Independence Act of 1985 (GAIN) provided for
30 pursuant to Article 3.2 (commencing with Section 11320) of
31 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
32 Code, or its successor.

33 (III) Immediately preceding the qualified employee’s
34 commencement of employment with the taxpayer, was an
35 economically disadvantaged individual 14 years of age or older.

36 (IV) Immediately preceding the qualified employee’s
37 commencement of employment with the taxpayer, was a dislocated
38 worker who meets any of the following:

39 (aa) Has been terminated or laid off or who has received a notice
40 of termination or layoff from employment, is eligible for or has

1 exhausted entitlement to unemployment insurance benefits, and
2 is unlikely to return to his or her previous industry or occupation.

3 (bb) Has been terminated or has received a notice of termination
4 of employment as a result of any permanent closure or any
5 substantial layoff at a plant, facility, or enterprise, including an
6 individual who has not received written notification but whose
7 employer has made a public announcement of the closure or layoff.

8 (cc) Is long-term unemployed and has limited opportunities for
9 employment or reemployment in the same or a similar occupation
10 in the area in which the individual resides, including an individual
11 55 years of age or older who may have substantial barriers to
12 employment by reason of age.

13 (dd) Was self-employed (including farmers and ranchers) and
14 is unemployed as a result of general economic conditions in the
15 community in which he or she resides or because of natural
16 disasters.

17 (ee) Was a civilian employee of the Department of Defense
18 employed at a military installation being closed or realigned under
19 the Defense Base Closure and Realignment Act of 1990.

20 (ff) Was an active member of the armed forces or National
21 Guard as of September 30, 1990, and was either involuntarily
22 separated or separated pursuant to a special benefits program.

23 (gg) Is a seasonal or migrant worker who experiences chronic
24 seasonal unemployment and underemployment in the agriculture
25 industry, aggravated by continual advancements in technology and
26 mechanization.

27 (hh) Has been terminated or laid off, or has received a notice
28 of termination or layoff, as a consequence of compliance with the
29 Clean Air Act.

30 (V) Immediately preceding the qualified employee's
31 commencement of employment with the taxpayer, was a disabled
32 individual who is eligible for or enrolled in, or has completed a
33 state rehabilitation plan or is a service-connected disabled veteran,
34 veteran of the Vietnam era, or veteran who is recently separated
35 from military service.

36 (VI) Immediately preceding the qualified employee's
37 commencement of employment with the taxpayer, was an
38 ex-offender. An individual shall be treated as convicted if he or
39 she was placed on probation by a state court without a finding of
40 guilt.

(VII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

- (aa) Federal Supplemental Security Income benefits.
- (bb) Aid to Families with Dependent Children.
- (cc) CalFresh benefits.
- (dd) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area (as defined in Section 7072 of the Government Code).

(X) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 23622 or the program area hiring credit under former Section 23623.

(XI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) (a) "Taxpayer" means a corporation engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(b) "Taxpayer" shall not include employers that provide temporary help services, as described in Code 561320 of the North American Industry Classification System (NAICS).

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the enterprise zone, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2) Retain a copy of the certification and provide it ~~upon request~~ to the Franchise Tax Board *annually*.

(d) (1) For purposes of this section:

(A) All employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) For purposes of this subdivision, “controlled group of corporations” means “controlled group of corporations” as defined in Section 1563(a) of the Internal Revenue Code, except that:

(i) “More than 50 percent” shall be substituted for “at least 80 percent” each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(ii) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as

1 terminated if the employee continues to be employed in that trade
2 or business.

3 (e) (1) (A) If the employment, other than seasonal employment,
4 of any qualified employee with respect to whom qualified wages
5 are taken into account under subdivision (a) is terminated by the
6 taxpayer at any time during the first 270 days of that employment,
7 whether or not consecutive, or before the close of the 270th
8 calendar day after the day in which that employee completes 90
9 days of employment with the taxpayer, the tax imposed by this
10 part for the taxable year in which that employment is terminated
11 shall be increased by an amount equal to the credit allowed under
12 subdivision (a) for that taxable year and all prior taxable years
13 attributable to qualified wages paid or incurred with respect to that
14 employee.

15 (B) If the seasonal employment of any qualified employee, with
16 respect to whom qualified wages are taken into account under
17 subdivision (a) is not continued by the taxpayer for a period of
18 270 days of employment during the 60-month period beginning
19 with the day the qualified employee commences seasonal
20 employment with the taxpayer, the tax imposed by this part, for
21 the taxable year that includes the 60th month following the month
22 in which the qualified employee commences seasonal employment
23 with the taxpayer, shall be increased by an amount equal to the
24 credit allowed under subdivision (a) for that taxable year and all
25 prior taxable years attributable to qualified wages paid or incurred
26 with respect to that qualified employee.

27 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
28 any of the following:

29 (i) A termination of employment of a qualified employee who
30 voluntarily leaves the employment of the taxpayer.

31 (ii) A termination of employment of a qualified employee who,
32 before the close of the period referred to in subparagraph (A) of
33 paragraph (1), becomes disabled and unable to perform the services
34 of that employment, unless that disability is removed before the
35 close of that period and the taxpayer fails to offer reemployment
36 to that employee.

37 (iii) A termination of employment of a qualified employee, if
38 it is determined that the termination was due to the misconduct (as
39 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
40 the California Code of Regulations) of that employee.

1 (iv) A termination of employment of a qualified employee due
2 to a substantial reduction in the trade or business operations of the
3 taxpayer.

4 (v) A termination of employment of a qualified employee, if
5 that employee is replaced by other qualified employees so as to
6 create a net increase in both the number of employees and the
7 hours of employment.

8 (B) Subparagraph (B) of paragraph (1) shall not apply to any
9 of the following:

10 (i) A failure to continue the seasonal employment of a qualified
11 employee who voluntarily fails to return to the seasonal
12 employment of the taxpayer.

13 (ii) A failure to continue the seasonal employment of a qualified
14 employee who, before the close of the period referred to in
15 subparagraph (B) of paragraph (1), becomes disabled and unable
16 to perform the services of that seasonal employment, unless that
17 disability is removed before the close of that period and the
18 taxpayer fails to offer seasonal employment to that qualified
19 employee.

20 (iii) A failure to continue the seasonal employment of a qualified
21 employee, if it is determined that the failure to continue the
22 seasonal employment was due to the misconduct (as defined in
23 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
24 Code of Regulations) of that qualified employee.

25 (iv) A failure to continue seasonal employment of a qualified
26 employee due to a substantial reduction in the regular seasonal
27 trade or business operations of the taxpayer.

28 (v) A failure to continue the seasonal employment of a qualified
29 employee, if that qualified employee is replaced by other qualified
30 employees so as to create a net increase in both the number of
31 seasonal employees and the hours of seasonal employment.

32 (C) For purposes of paragraph (1), the employment relationship
33 between the taxpayer and a qualified employee shall not be treated
34 as terminated by either of the following:

35 (i) By a transaction to which Section 381(a) of the Internal
36 Revenue Code applies, if the qualified employee continues to be
37 employed by the acquiring corporation.

38 (ii) By reason of a mere change in the form of conducting the
39 trade or business of the taxpayer, if the qualified employee

1 continues to be employed in that trade or business and the taxpayer
2 retains a substantial interest in that trade or business.

3 (3) Any increase in tax under paragraph (1) shall not be treated
4 as tax imposed by this part for purposes of determining the amount
5 of any credit allowable under this part.

6 (f) Rules similar to the rules provided in Section 46(e) and (h)
7 of the Internal Revenue Code shall apply to both of the following:

8 (1) An organization to which Section 593 of the Internal
9 Revenue Code applies.

10 (2) A regulated investment company or a real estate investment
11 trust subject to taxation under this part.

12 (g) For purposes of this section, “enterprise zone” means an
13 area designated as an enterprise zone pursuant to Chapter 12.8
14 (commencing with Section 7070) of Division 7 of Title 1 of the
15 Government Code.

16 (h) The credit allowable under this section shall be reduced by
17 the credit allowed under Sections 23623.5, 23625, and 23646
18 claimed for the same employee. The credit shall also be reduced
19 by the federal credit allowed under Section 51 of the Internal
20 Revenue Code.

21 In addition, any deduction otherwise allowed under this part for
22 the wages or salaries paid or incurred by the taxpayer upon which
23 the credit is based shall be reduced by the amount of the credit,
24 prior to any reduction required by subdivision (i) or (j).

25 (i) In the case where the credit otherwise allowed under this
26 section exceeds the “tax” for the taxable year, that portion of the
27 credit that exceeds the “tax” may be carried over and added to the
28 credit, if any, in succeeding taxable years, until the credit is
29 exhausted. The credit shall be applied first to the earliest taxable
30 years possible.

31 (j) (1) The amount of the credit otherwise allowed under this
32 section and Section 23612.2, including any credit carryover from
33 prior years, that may reduce the “tax” for the taxable year shall
34 not exceed the amount of tax which would be imposed on the
35 taxpayer’s business income attributable to the enterprise zone
36 determined as if that attributable income represented all of the
37 income of the taxpayer subject to tax under this part.

38 (2) Attributable income shall be that portion of the taxpayer’s
39 California source business income that is apportioned to the
40 enterprise zone. For that purpose, the taxpayer’s business

1 attributable to sources in this state first shall be determined in
2 accordance with Chapter 17 (commencing with Section 25101).
3 That business income shall be further apportioned to the enterprise
4 zone in accordance with Article 2 (commencing with Section
5 25120) of Chapter 17, modified for purposes of this section in
6 accordance with paragraph (3).

7 (3) Business income shall be apportioned to the enterprise zone
8 by multiplying the total California business income of the taxpayer
9 by a fraction, the numerator of which is the property factor plus
10 the payroll factor, and the denominator of which is two. For
11 purposes of this paragraph:

12 (A) The property factor is a fraction, the numerator of which is
13 the average value of the taxpayer's real and tangible personal
14 property owned or rented and used in the enterprise zone during
15 the income year, and the denominator of which is the average value
16 of all the taxpayer's real and tangible personal property owned or
17 rented and used in this state during the income year.

18 (B) The payroll factor is a fraction, the numerator of which is
19 the total amount paid by the taxpayer in the enterprise zone during
20 the income year for compensation, and the denominator of which
21 is the total compensation paid by the taxpayer in this state during
22 the income year.

23 (4) The portion of any credit remaining, if any, after application
24 of this subdivision, shall be carried over to succeeding taxable
25 years, as if it were an amount exceeding the "tax" for the taxable
26 year, as provided in subdivision (i).

27 (k) The changes made to this section by ~~the act adding this~~
28 ~~subdivision Chapter 609 by the Statutes of 1997~~ shall apply to
29 taxable years on or after January 1, 1997.

30 (l) *The Franchise Tax Board shall compile the certifications*
31 *submitted pursuant to paragraph (2) of subdivision (c) and shall*
32 *provide as a searchable database on its Internet Web site, for each*
33 *taxable year beginning on or after January 1, 2013, and before*
34 *January 1, 2019, the employer names, amounts of tax credit*
35 *claimed, and number of new jobs created for each taxable year*
36 *pursuant to this section, Sections 17053.34, 17053.45, 17053.46,*
37 *17053.47, 23622.8, 23634, and 23646.*

38 (m) *This section shall remain in effect only until December 1,*
39 *2019, and as of that date is repealed.*

1 *SEC. 7. Section 23622.8 of the Revenue and Taxation Code is*
2 *amended to read:*

3 23622.8. (a) *(1) For each taxable year beginning on or after*
4 *January 1, 1998, and before January 1, 2013, there shall be allowed*
5 *a credit against the “tax” (as defined in Section 23036) to a*
6 *qualified taxpayer for hiring a qualified disadvantaged individual*
7 *during the taxable year for employment in the manufacturing*
8 *enhancement area. The credit shall be equal to the sum of each of*
9 *the following:*

10 ~~(1)~~
11 (A) Fifty percent of the qualified wages in the first year of
12 employment.

13 ~~(2)~~
14 (B) Forty percent of the qualified wages in the second year of
15 employment.

16 ~~(3)~~
17 (C) Thirty percent of the qualified wages in the third year of
18 employment.

19 ~~(4)~~
20 (D) Twenty percent of the qualified wages in the fourth year of
21 employment.

22 ~~(5)~~
23 (E) Ten percent of the qualified wages in the fifth year of
24 employment.

25 (2) (A) *For each taxable year beginning on or after January*
26 *1, 2013, and before January 1, 2019, there shall be allowed as a*
27 *credit against the “net tax,” as defined in Section 23036, to a*
28 *qualified taxpayer for hiring a qualified disadvantaged individual*
29 *during the taxable year for employment in the manufacturing*
30 *enhancement area. The credit shall be equal to the sum of each of*
31 *the following:*

32 (i) *Ten percent of qualified wages in the first year of*
33 *employment.*

34 (ii) *Ten percent of qualified wages in the second year of*
35 *employment.*

36 (iii) *Thirty percent of qualified wages in the third year of*
37 *employment.*

38 (iv) *Forty percent of qualified wages in the fourth year of*
39 *employment.*

1 (v) *Fifty percent of qualified wages in the fifth year of*
2 *employment.*

3 (B) *The credit shall be allowed only with respect to qualified*
4 *wages paid for each net increase in qualified employees. A net*
5 *increase shall be determined by subtracting from the amount*
6 *determined in clause (i) the amount determined in clause (ii). For*
7 *purposes of this subparagraph, “qualified employee” means*
8 *qualified disadvantaged individual.*

9 (i) *The total number of qualified employees employed in the*
10 *state in the preceding taxable year by the qualified taxpayer and*
11 *by any trade or business acquired by the qualified taxpayer during*
12 *the preceding taxable year.*

13 (ii) *The total number of qualified employees employed in the*
14 *state in the current taxable year by the qualified taxpayer and by*
15 *any trade or business acquired by the qualified taxpayer during*
16 *the current taxable year.*

17 (C) *If a qualified taxpayer relocated to a targeted tax area from*
18 *within the state during the taxable year for which the credit is*
19 *claimed, the qualified taxpayer shall be allowed a credit with*
20 *respect to qualified wages for each net increase in qualified*
21 *employees only if the qualified taxpayer makes each employee at*
22 *the previous location or locations a written bona fide offer of*
23 *employment at the new location.*

24 (b) For purposes of this section:

25 (1) “Qualified wages” means:

26 (A) *That portion of wages paid or incurred by the qualified*
27 *taxpayer during the taxable year to qualified disadvantaged*
28 *individuals that ~~does not exceed 150~~ exceeds 200 percent of the*
29 *minimum wage and does not exceed 500 percent of the minimum*
30 *wage.*

31 (B) *The total amount of qualified wages which may be taken*
32 *into account for purposes of claiming the credit allowed under this*
33 *section shall not exceed two million dollars (\$2,000,000) per*
34 *taxable year.*

35 (C) *Wages received during the 60-month period beginning with*
36 *the first day the qualified disadvantaged individual commences*
37 *employment with the qualified taxpayer. Reemployment in*
38 *connection with any increase, including a regularly occurring*
39 *seasonal increase, in the trade or business operations of the*

1 qualified taxpayer does not constitute commencement of
2 employment for purposes of this section.

3 (D) Qualified wages do not include any wages paid or incurred
4 by the qualified taxpayer on or after the manufacturing
5 enhancement area expiration date. However, wages paid or incurred
6 with respect to qualified employees who are employed by the
7 qualified taxpayer within the manufacturing enhancement area
8 within the 60-month period prior to the manufacturing enhancement
9 area expiration date shall continue to qualify for the credit under
10 this section after the manufacturing enhancement area expiration
11 date, in accordance with all provisions of this section applied as
12 if the manufacturing enhancement area designation were still in
13 existence and binding.

14 (2) “Minimum wage” means the wage established by the
15 Industrial Welfare Commission as provided for in Chapter 1
16 (commencing with Section 1171) of Part 4 of Division 2 of the
17 Labor Code.

18 (3) “Manufacturing enhancement area” means an area designated
19 pursuant to Section 7073.8 of the Government Code according to
20 the procedures of Chapter 12.8 (commencing with Section 7070)
21 of Division 7 of Title 1 of the Government Code.

22 (4) “Manufacturing enhancement area expiration date” means
23 the date the manufacturing enhancement area designation expires,
24 is no longer binding, or becomes inoperative.

25 (5) “Qualified disadvantaged individual” means an individual
26 who satisfies all of the following requirements:

27 (A) (i) At least 90 percent of whose services for the qualified
28 taxpayer during the taxable year are directly related to the conduct
29 of the qualified taxpayer’s trade or business located in a
30 manufacturing enhancement area.

31 (ii) Who performs at least 50 percent of his or her services for
32 the qualified taxpayer during the taxable year in the manufacturing
33 enhancement area.

34 (B) Who is hired by the qualified taxpayer after the designation
35 of the area as a manufacturing enhancement area in which the
36 individual’s services were primarily performed.

37 (C) Who is any of the following immediately preceding the
38 individual’s commencement of employment with the qualified
39 taxpayer:

1 (i) An individual who has been determined eligible for services
2 under the federal Job Training Partnership Act (29 U.S.C. Sec.
3 1501 et seq.) or its successor.

4 (ii) Any voluntary or mandatory registrant under the Greater
5 Avenues for Independence Act of 1985, or its successor, as
6 provided pursuant to Article 3.2 (commencing with Section 11320)
7 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
8 Code.

9 (iii) Any individual who has been certified eligible by the
10 Employment Development Department under the federal Targeted
11 Jobs Tax Credit Program, or its successor, whether or not this
12 program is in effect.

13 (6) (A) “Qualified taxpayer” means any corporation engaged
14 in a trade or business within a manufacturing enhancement area
15 designated pursuant to Section 7073.8 of the Government Code
16 and that meets all of the following requirements:

17 ~~(A)~~

18 (i) Is engaged in those lines of business described in Codes 0211
19 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999, inclusive,
20 of the Standard Industrial Classification (SIC) Manual published
21 by the United States Office of Management and Budget, 1987
22 edition.

23 ~~(B)~~

24 (ii) At least 50 percent of the qualified taxpayer’s workforce
25 hired after the designation of the manufacturing enhancement area
26 is composed of individuals who, at the time of hire, are residents
27 of the county in which the manufacturing enhancement area is
28 located.

29 ~~(C)~~

30 (iii) Of this percentage of local hires, at least 30 percent shall
31 be qualified disadvantaged individuals.

32 (B) “*Qualified taxpayer*” shall not include employers that
33 provide temporary help services, as described in Code 561320 of
34 the North American Industry Classification System (NAICS).

35 (7) “Seasonal employment” means employment by a qualified
36 taxpayer that has regular and predictable substantial reductions in
37 trade or business operations.

38 (c) (1) For purposes of this section, all of the following apply:

1 (A) All employees of all corporations that are members of the
2 same controlled group of corporations shall be treated as employed
3 by a single qualified taxpayer.

4 (B) The credit (if any) allowable by this section with respect to
5 each member shall be determined by reference to its proportionate
6 share of the expenses of the qualified wages giving rise to the
7 credit and shall be allocated in that manner.

8 (C) Principles that apply in the case of controlled groups of
9 corporations, as specified in subdivision (d) of Section 23622.7,
10 shall apply with respect to determining employment.

11 (2) If a qualified taxpayer acquires the major portion of a trade
12 or business of another employer (hereinafter in this paragraph
13 referred to as the “predecessor”) or the major portion of a separate
14 unit of a trade or business of a predecessor, then, for purposes of
15 applying this section (other than subdivision (d)) for any calendar
16 year ending after that acquisition, the employment relationship
17 between a qualified disadvantaged individual and a qualified
18 taxpayer shall not be treated as terminated if the qualified
19 disadvantaged individual continues to be employed in that trade
20 or business.

21 (d) (1) (A) If the employment, other than seasonal employment,
22 of any qualified disadvantaged individual, with respect to whom
23 qualified wages are taken into account under subdivision (b) is
24 terminated by the qualified taxpayer at any time during the first
25 270 days of that employment (whether or not consecutive) or before
26 the close of the 270th calendar day after the day in which that
27 qualified disadvantaged individual completes 90 days of
28 employment with the qualified taxpayer, the tax imposed by this
29 part for the taxable year in which that employment is terminated
30 shall be increased by an amount equal to the credit allowed under
31 subdivision (a) for that taxable year and all prior taxable years
32 attributable to qualified wages paid or incurred with respect to that
33 qualified disadvantaged individual.

34 (B) If the seasonal employment of any qualified disadvantaged
35 individual, with respect to whom qualified wages are taken into
36 account under subdivision (a) is not continued by the qualified
37 taxpayer for a period of 270 days of employment during the
38 60-month period beginning with the day the qualified
39 disadvantaged individual commences seasonal employment with
40 the qualified taxpayer, the tax imposed by this part, for the income

1 year that includes the 60th month following the month in which
2 the qualified disadvantaged individual commences seasonal
3 employment with the qualified taxpayer, shall be increased by an
4 amount equal to the credit allowed under subdivision (a) for that
5 taxable year and all prior taxable years attributable to qualified
6 wages paid or incurred with respect to that qualified disadvantaged
7 individual.

8 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
9 any of the following:

10 (i) A termination of employment of a qualified disadvantaged
11 individual who voluntarily leaves the employment of the qualified
12 taxpayer.

13 (ii) A termination of employment of a qualified disadvantaged
14 individual who, before the close of the period referred to in
15 subparagraph (A) of paragraph (1), becomes disabled to perform
16 the services of that employment, unless that disability is removed
17 before the close of that period and the qualified taxpayer fails to
18 offer reemployment to that individual.

19 (iii) A termination of employment of a qualified disadvantaged
20 individual, if it is determined that the termination was due to the
21 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,
22 of Title 22 of the California Code of Regulations) of that individual.

23 (iv) A termination of employment of a qualified disadvantaged
24 individual due to a substantial reduction in the trade or business
25 operations of the qualified taxpayer.

26 (v) A termination of employment of a qualified disadvantaged
27 individual, if that individual is replaced by other qualified
28 disadvantaged individuals so as to create a net increase in both the
29 number of employees and the hours of employment.

30 (B) Subparagraph (B) of paragraph (1) shall not apply to any
31 of the following:

32 (i) A failure to continue the seasonal employment of a qualified
33 disadvantaged individual who voluntarily fails to return to the
34 seasonal employment of the qualified taxpayer.

35 (ii) A failure to continue the seasonal employment of a qualified
36 disadvantaged individual who, before the close of the period
37 referred to in subparagraph (B) of paragraph (1), becomes disabled
38 and unable to perform the services of that seasonal employment,
39 unless that disability is removed before the close of that period

1 and the qualified taxpayer fails to offer seasonal employment to
2 that qualified disadvantaged individual.

3 (iii) A failure to continue the seasonal employment of a qualified
4 disadvantaged individual, if it is determined that the failure to
5 continue the seasonal employment was due to the misconduct (as
6 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
7 the California Code of Regulations) of that qualified disadvantaged
8 individual.

9 (iv) A failure to continue seasonal employment of a qualified
10 disadvantaged individual due to a substantial reduction in the
11 regular seasonal trade or business operations of the qualified
12 taxpayer.

13 (v) A failure to continue the seasonal employment of a qualified
14 disadvantaged individual, if that qualified disadvantaged individual
15 is replaced by other qualified disadvantaged individuals so as to
16 create a net increase in both the number of seasonal employees
17 and the hours of seasonal employment.

18 (C) For purposes of paragraph (1), the employment relationship
19 between the qualified taxpayer and a qualified disadvantaged
20 individual shall not be treated as terminated by either of the
21 following:

22 (i) By a transaction to which Section 381(a) of the Internal
23 Revenue Code applies, if the qualified disadvantaged individual
24 continues to be employed by the acquiring corporation.

25 (ii) By reason of a mere change in the form of conducting the
26 trade or business of the qualified taxpayer, if the qualified
27 disadvantaged individual continues to be employed in that trade
28 or business and the qualified taxpayer retains a substantial interest
29 in that trade or business.

30 (3) Any increase in tax under paragraph (1) shall not be treated
31 as tax imposed by this part for purposes of determining the amount
32 of any credit allowable under this part.

33 (e) The credit shall be reduced by the credit allowed under
34 Section 23621. The credit shall also be reduced by the federal
35 credit allowed under Section 51 of the Internal Revenue Code.

36 In addition, any deduction otherwise allowed under this part for
37 the wages or salaries paid or incurred by the qualified taxpayer
38 upon which the credit is based shall be reduced by the amount of
39 the credit, prior to any reduction required by subdivision (f) or (g).

1 (f) In the case where the credit otherwise allowed under this
2 section exceeds the “tax” for the taxable year, that portion of the
3 credit that exceeds the “tax” may be carried over and added to the
4 credit, if any, in succeeding years, until the credit is exhausted.
5 The credit shall be applied first to the earliest taxable years
6 possible.

7 (g) (1) The amount of credit otherwise allowed under this
8 section, including prior year credit carryovers, that may reduce
9 the “tax” for the taxable year shall not exceed the amount of tax
10 that would be imposed on the qualified taxpayer’s business income
11 attributed to a manufacturing enhancement area determined as if
12 that attributed income represented all of the net income of the
13 qualified taxpayer subject to tax under this part.

14 (2) Attributable income is that portion of the taxpayer’s
15 California source business income that is apportioned to the
16 manufacturing enhancement area. For that purpose, the taxpayer’s
17 business income attributable to sources in this state first shall be
18 determined in accordance with Chapter 17 (commencing with
19 Section 25101). That business income shall be further apportioned
20 to the manufacturing enhancement area in accordance with Article
21 2 (commencing with Section 25120) of Chapter 17, modified for
22 purposes of this section in accordance with paragraph (3).

23 (3) Income shall be apportioned to a manufacturing enhancement
24 area by multiplying the total California business income of the
25 taxpayer by a fraction, the numerator of which is the property
26 factor plus the payroll factor, and the denominator of which is two.
27 For the purposes of this paragraph:

28 (A) The property factor is a fraction, the numerator of which is
29 the average value of the taxpayer’s real and tangible personal
30 property owned or rented and used in the manufacturing
31 enhancement area during the taxable year, and the denominator
32 of which is the average value of all the taxpayer’s real and tangible
33 personal property owned or rented and used in this state during
34 the taxable year.

35 (B) The payroll factor is a fraction, the numerator of which is
36 the total amount paid by the taxpayer in the manufacturing
37 enhancement area during the taxable year for compensation, and
38 the denominator of which is the total compensation paid by the
39 taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “tax” for the taxable year, as provided in subdivision (g).

(h) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(i) The qualified taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the manufacturing enhancement area, a certification that provides that a qualified disadvantaged individual meets the eligibility requirements specified in paragraph (5) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates pursuant to subdivision (d) of Section 7086 of the Government Code and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it ~~upon request~~ to the Franchise Tax Board *annually*.

(j) (1) For each taxable year beginning on or after January 1, 2013, and before January 1, 2019, the total aggregate amount of credits allowed pursuant to this section shall not exceed the total aggregate amount of credits claimed pursuant to this section in the taxable year beginning on or after January 1, 2012, and before January 1, 2013, as determined by the Franchise Tax Board.

(2) Upon receipt of a timely filed original return, the Franchise Tax Board shall allocate the credit to the qualified taxpayer on a first-come-first-served basis.

(k) (1) The Franchise Tax Board shall compile the certifications submitted pursuant to paragraph (2) of subdivision (i) and shall provide as a searchable database on its Internet Web site, for each taxable year beginning on or after January 1, 2013, and before January 1, 2019, the employer names, amounts of tax credit claimed, and number of new jobs created for each taxable year

1 pursuant to this section, Sections 17053.34, 17053.46, 17053.47,
2 17053.74, 23622.7, 23634, and 23646.

3 (2) The Franchise Tax Board may prescribe rules, guidelines,
4 or procedures necessary or appropriate to carry out the purposes
5 of this section, including any guidelines regarding the allocation
6 of the credit allowed under this section.

7 (l) This section shall remain in effect only until December 1,
8 2019, and as of that date is repealed.

9 SEC. 8. Section 23634 of the Revenue and Taxation Code is
10 amended to read:

11 23634. (a) (1) For each taxable year beginning on or after
12 January 1, 1998, and before January 1, 2013, there shall be allowed
13 a credit against the “tax” (as defined by Section 23036) to a
14 qualified taxpayer who employs a qualified employee in a targeted
15 tax area during the taxable year. The credit shall be equal to the
16 sum of each of the following:

17 ~~(1)~~

18 (A) Fifty percent of qualified wages in the first year of
19 employment.

20 ~~(2)~~

21 (B) Forty percent of qualified wages in the second year of
22 employment.

23 ~~(3)~~

24 (C) Thirty percent of qualified wages in the third year of
25 employment.

26 ~~(4)~~

27 (D) Twenty percent of qualified wages in the fourth year of
28 employment.

29 ~~(5)~~

30 (E) Ten percent of qualified wages in the fifth year of
31 employment.

32 (2) (A) For each taxable year beginning on or after January
33 1, 2013, and before January 1, 2019, there shall be allowed a
34 credit against the “net tax,” as defined in Section 23036, to a
35 qualified taxpayer who employs a qualified employee in a targeted
36 tax area during the taxable year. The credit shall be equal to the
37 sum of each of the following:

38 (i) Ten percent of qualified wages in the first year of
39 employment.

1 (ii) Ten percent of qualified wages in the second year of
2 employment.

3 (iii) Thirty percent of qualified wages in the third year of
4 employment.

5 (iv) Forty percent of qualified wages in the fourth year of
6 employment.

7 (v) Fifty percent of qualified wages in the fifth year of
8 employment.

9 (B) The credit shall be allowed only with respect to qualified
10 wages paid for each net increase in qualified employees. A net
11 increase shall be determined by subtracting from the amount
12 determined in clause (i) the amount determined in clause (ii).

13 (i) The total number of qualified employees employed in the
14 state in the preceding taxable year by the qualified taxpayer and
15 by any trade or business acquired by the qualified taxpayer during
16 the preceding taxable year.

17 (ii) The total number of qualified employees employed in the
18 state in the current taxable year by the qualified taxpayer and by
19 any trade or business acquired by the qualified taxpayer during
20 the current taxable year.

21 (C) If a qualified taxpayer relocated to a targeted tax area from
22 within the state during the taxable year for which the credit is
23 claimed, the qualified taxpayer shall be allowed a credit with
24 respect to qualified wages for each net increase in qualified
25 employees only if the qualified taxpayer makes each employee at
26 the previous location or locations a written bona fide offer of
27 employment at the new location.

28 (b) For purposes of this section:

29 (1) "Qualified wages" means:

30 (A) That portion of wages paid or incurred by the qualified
31 taxpayer during the taxable year to qualified employees that ~~does~~
32 ~~not exceed 150~~ exceeds 200 percent of the minimum wage and
33 does not exceed 500 percent of the minimum wage.

34 (B) Wages received during the 60-month period beginning with
35 the first day the employee commences employment with the
36 qualified taxpayer. Reemployment in connection with any increase,
37 including a regularly occurring seasonal increase, in the trade or
38 business operations of the qualified taxpayer does not constitute
39 commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the targeted tax area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period prior to the targeted tax area expiration date shall continue to qualify for the credit under this section after the targeted tax area expiration date, in accordance with all provisions of this section applied as if the targeted tax area designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Targeted tax area expiration date” means the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of his or her services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer’s trade or business located in a targeted tax area.

(ii) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a targeted tax area.

(iii) Is hired by the qualified taxpayer after the date of original designation of the area in which services were performed as a targeted tax area.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section

1 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
2 Institutions Code, or its successor.

3 (III) Immediately preceding the qualified employee's
4 commencement of employment with the qualified taxpayer, was
5 an economically disadvantaged individual 14 years of age or older.

6 (IV) Immediately preceding the qualified employee's
7 commencement of employment with the qualified taxpayer, was
8 a dislocated worker who meets any of the following:

9 (aa) Has been terminated or laid off or who has received a notice
10 of termination or layoff from employment, is eligible for or has
11 exhausted entitlement to unemployment insurance benefits, and
12 is unlikely to return to his or her previous industry or occupation.

13 (bb) Has been terminated or has received a notice of termination
14 of employment as a result of any permanent closure or any
15 substantial layoff at a plant, facility, or enterprise, including an
16 individual who has not received written notification but whose
17 employer has made a public announcement of the closure or layoff.

18 (cc) Is long-term unemployed and has limited opportunities for
19 employment or reemployment in the same or a similar occupation
20 in the area in which the individual resides, including an individual
21 55 years of age or older who may have substantial barriers to
22 employment by reason of age.

23 (dd) Was self-employed (including farmers and ranchers) and
24 is unemployed as a result of general economic conditions in the
25 community in which he or she resides or because of natural
26 disasters.

27 (ee) Was a civilian employee of the Department of Defense
28 employed at a military installation being closed or realigned under
29 the Defense Base Closure and Realignment Act of 1990.

30 (ff) Was an active member of the Armed Forces or National
31 Guard as of September 30, 1990, and was either involuntarily
32 separated or separated pursuant to a special benefits program.

33 (gg) Is a seasonal or migrant worker who experiences chronic
34 seasonal unemployment and underemployment in the agriculture
35 industry, aggravated by continual advancements in technology and
36 mechanization.

37 (hh) Has been terminated or laid off, or has received a notice
38 of termination or layoff, as a consequence of compliance with the
39 Clean Air Act.

1 (V) Immediately preceding the qualified employee's
2 commencement of employment with the qualified taxpayer, was
3 a disabled individual who is eligible for or enrolled in, or has
4 completed a state rehabilitation plan or is a service-connected
5 disabled veteran, veteran of the Vietnam era, or veteran who is
6 recently separated from military service.

7 (VI) Immediately preceding the qualified employee's
8 commencement of employment with the qualified taxpayer, was
9 an ex-offender. An individual shall be treated as convicted if he
10 or she was placed on probation by a state court without a finding
11 of guilt.

12 (VII) Immediately preceding the qualified employee's
13 commencement of employment with the qualified taxpayer, was
14 a person eligible for or a recipient of any of the following:

15 (aa) Federal Supplemental Security Income benefits.

16 (bb) Aid to Families with Dependent Children.

17 (cc) CalFresh benefits.

18 (dd) State and local general assistance.

19 (VIII) Immediately preceding the qualified employee's
20 commencement of employment with the qualified taxpayer, was
21 a member of a federally recognized Indian tribe, band, or other
22 group of Native American descent.

23 (IX) Immediately preceding the qualified employee's
24 commencement of employment with the qualified taxpayer, was
25 a resident of a targeted tax area.

26 (X) Immediately preceding the qualified employee's
27 commencement of employment with the taxpayer, was a member
28 of a targeted group, as defined in Section 51(d) of the Internal
29 Revenue Code, or its successor.

30 (B) Priority for employment shall be provided to an individual
31 who is enrolled in a qualified program under the federal Job
32 Training Partnership Act or the Greater Avenues for Independence
33 Act of 1985 or who is eligible as a member of a targeted group
34 under the Work Opportunity Tax Credit (Section 51 of the Internal
35 Revenue Code), or its successor.

36 (5) (A) "Qualified taxpayer" means a person or entity that meets
37 both of the following:

38 (i) Is engaged in a trade or business within a targeted tax area
39 designated pursuant to Chapter 12.93 (commencing with Section
40 7097) of Division 7 of Title 1 of the Government Code.

(ii) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) In the case of any passthrough entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 17053.34 shall be allowed to the passthrough entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 10 (commencing with Section 17001). For purposes of this subparagraph, the term “passthrough entity” means any partnership or S corporation.

(C) “*Qualified taxpayer*” shall not include employers that provide temporary help services, as described in Code 561320 of the North American Industry Classification System (NAICS).

(6) “Seasonal employment” means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) If the qualified taxpayer is allowed a credit for qualified wages pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to those qualified wages.

(d) The qualified taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the targeted tax area, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations for the issuance of certificates pursuant to subdivision (g) of Section 7097 of the Government Code, and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it ~~upon request~~ to the Franchise Tax Board *annually*.

(e) (1) For purposes of this section:

1 (A) All employees of all corporations that are members of the
2 same controlled group of corporations shall be treated as employed
3 by a single taxpayer.

4 (B) The credit, if any, allowable by this section to each member
5 shall be determined by reference to its proportionate share of the
6 expense of the qualified wages giving rise to the credit, and shall
7 be allocated in that manner.

8 (C) For purposes of this subdivision, “controlled group of
9 corporations” means “controlled group of corporations” as defined
10 in Section 1563(a) of the Internal Revenue Code, except that:

11 (i) “More than 50 percent” shall be substituted for “at least 80
12 percent” each place it appears in Section 1563(a)(1) of the Internal
13 Revenue Code.

14 (ii) The determination shall be made without regard to
15 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
16 Revenue Code.

17 (2) If an employer acquires the major portion of a trade or
18 business of another employer (hereinafter in this paragraph referred
19 to as the “predecessor”) or the major portion of a separate unit of
20 a trade or business of a predecessor, then, for purposes of applying
21 this section (other than subdivision (f)) for any calendar year ending
22 after that acquisition, the employment relationship between a
23 qualified employee and an employer shall not be treated as
24 terminated if the employee continues to be employed in that trade
25 or business.

26 (f) (1) (A) If the employment, other than seasonal employment,
27 of any qualified employee with respect to whom qualified wages
28 are taken into account under subdivision (a) is terminated by the
29 qualified taxpayer at any time during the first 270 days of that
30 employment (whether or not consecutive) or before the close of
31 the 270th calendar day after the day in which that employee
32 completes 90 days of employment with the qualified taxpayer, the
33 tax imposed by this part for the taxable year in which that
34 employment is terminated shall be increased by an amount equal
35 to the credit allowed under subdivision (a) for that taxable year
36 and all prior taxable years attributable to qualified wages paid or
37 incurred with respect to that employee.

38 (B) If the seasonal employment of any qualified employee, with
39 respect to whom qualified wages are taken into account under
40 subdivision (a) is not continued by the qualified taxpayer for a

1 period of 270 days of employment during the 60-month period
2 beginning with the day the qualified employee commences seasonal
3 employment with the qualified taxpayer, the tax imposed by this
4 part, for the taxable year that includes the 60th month following
5 the month in which the qualified employee commences seasonal
6 employment with the qualified taxpayer, shall be increased by an
7 amount equal to the credit allowed under subdivision (a) for that
8 taxable year and all prior taxable years attributable to qualified
9 wages paid or incurred with respect to that qualified employee.

10 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
11 any of the following:

12 (i) A termination of employment of a qualified employee who
13 voluntarily leaves the employment of the qualified taxpayer.

14 (ii) A termination of employment of a qualified employee who,
15 before the close of the period referred to in subparagraph (A) of
16 paragraph (1), becomes disabled and unable to perform the services
17 of that employment, unless that disability is removed before the
18 close of that period and the qualified taxpayer fails to offer
19 reemployment to that employee.

20 (iii) A termination of employment of a qualified employee, if
21 it is determined that the termination was due to the misconduct (as
22 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
23 the California Code of Regulations) of that employee.

24 (iv) A termination of employment of a qualified employee due
25 to a substantial reduction in the trade or business operations of the
26 taxpayer.

27 (v) A termination of employment of a qualified employee, if
28 that employee is replaced by other qualified employees so as to
29 create a net increase in both the number of employees and the
30 hours of employment.

31 (B) Subparagraph (B) of paragraph (1) shall not apply to any
32 of the following:

33 (i) A failure to continue the seasonal employment of a qualified
34 employee who voluntarily fails to return to the seasonal
35 employment of the qualified taxpayer.

36 (ii) A failure to continue the seasonal employment of a qualified
37 employee who, before the close of the period referred to in
38 subparagraph (B) of paragraph (1), becomes disabled and unable
39 to perform the services of that seasonal employment, unless that
40 disability is removed before the close of that period and the

1 qualified taxpayer fails to offer seasonal employment to that
2 qualified employee.

3 (iii) A failure to continue the seasonal employment of a qualified
4 employee, if it is determined that the failure to continue the
5 seasonal employment was due to the misconduct (as defined in
6 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
7 Code of Regulations) of that qualified employee.

8 (iv) A failure to continue seasonal employment of a qualified
9 employee due to a substantial reduction in the regular seasonal
10 trade or business operations of the qualified taxpayer.

11 (v) A failure to continue the seasonal employment of a qualified
12 employee, if that qualified employee is replaced by other qualified
13 employees so as to create a net increase in both the number of
14 seasonal employees and the hours of seasonal employment.

15 (C) For purposes of paragraph (1), the employment relationship
16 between the qualified taxpayer and a qualified employee shall not
17 be treated as terminated by either of the following:

18 (i) By a transaction to which Section 381(a) of the Internal
19 Revenue Code applies, if the qualified employee continues to be
20 employed by the acquiring corporation.

21 (ii) By reason of a mere change in the form of conducting the
22 trade or business of the qualified taxpayer, if the qualified
23 employee continues to be employed in that trade or business and
24 the qualified taxpayer retains a substantial interest in that trade or
25 business.

26 (3) Any increase in tax under paragraph (1) shall not be treated
27 as tax imposed by this part for purposes of determining the amount
28 of any credit allowable under this part.

29 (g) Rules similar to the rules provided in Sections 46(e) and (h)
30 of the Internal Revenue Code shall apply to both of the following:

31 (1) An organization to which Section 593 of the Internal
32 Revenue Code applies.

33 (2) A regulated investment company or a real estate investment
34 trust subject to taxation under this part.

35 (h) For purposes of this section, “targeted tax area” means an
36 area designated pursuant to Chapter 12.93 (commencing with
37 Section 7097) of Division 7 of Title 1 of the Government Code.

38 (i) In the case where the credit otherwise allowed under this
39 section exceeds the “tax” for the taxable year, that portion of the
40 credit that exceeds the “tax” may be carried over and added to the

1 credit, if any, in succeeding taxable years, until the credit is
2 exhausted. The credit shall be applied first to the earliest taxable
3 years possible.

4 (j) (1) The amount of the credit otherwise allowed under this
5 section and Section 23633, including any credit carryover from
6 prior years, that may reduce the “tax” for the taxable year shall
7 not exceed the amount of tax that would be imposed on the
8 qualified taxpayer’s business income attributable to the targeted
9 tax area determined as if that attributable income represented all
10 of the income of the qualified taxpayer subject to tax under this
11 part.

12 (2) Attributable income shall be that portion of the taxpayer’s
13 California source business income that is apportioned to the
14 targeted tax area. For that purpose, the taxpayer’s business income
15 attributable to sources in this state first shall be determined in
16 accordance with Chapter 17 (commencing with Section 25101).
17 That business income shall be further apportioned to the targeted
18 tax area in accordance with Article 2 (commencing with Section
19 25120) of Chapter 17, modified for purposes of this section in
20 accordance with paragraph (3).

21 (3) Business income shall be apportioned to the targeted tax
22 area by multiplying the total California business income of the
23 taxpayer by a fraction, the numerator of which is the property
24 factor plus the payroll factor, and the denominator of which is two.
25 For purposes of this paragraph:

26 (A) The property factor is a fraction, the numerator of which is
27 the average value of the taxpayer’s real and tangible personal
28 property owned or rented and used in the targeted tax area during
29 the taxable year, and the denominator of which is the average value
30 of all the taxpayer’s real and tangible personal property owned or
31 rented and used in this state during the taxable year.

32 (B) The payroll factor is a fraction, the numerator of which is
33 the total amount paid by the taxpayer in the targeted tax area during
34 the taxable year for compensation, and the denominator of which
35 is the total compensation paid by the taxpayer in this state during
36 the taxable year.

37 (4) The portion of any credit remaining, if any, after application
38 of this subdivision, shall be carried over to succeeding taxable
39 years, as if it were an amount exceeding the “tax” for the taxable
40 year, as provided in subdivision (h).

(5) In the event that a credit carryover is allowable under subdivision (h) for any taxable year after the targeted tax area designation has expired or been revoked, the targeted tax area shall be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.

(k) (1) *For each taxable year beginning on or after January 1, 2013, and before January 1, 2019, the total aggregate amount of credits allowed pursuant to this section shall not exceed the total aggregate amount of credits claimed pursuant to this section in the taxable year beginning on or after January 1, 2012, and before January 1, 2013, as determined by the Franchise Tax Board.*

(2) *Upon receipt of a timely filed original return, the Franchise Tax Board shall allocate the credit to the qualified taxpayer on a first-come-first-served basis.*

(l) (1) *The Franchise Tax Board shall compile the certifications submitted pursuant to paragraph (2) of subdivision (d) and shall provide as a searchable database on its Internet Web site, for each taxable year beginning on or after January 1, 2013, and before January 1, 2019, the employer names, amounts of tax credit claimed, and number of new jobs created for each taxable year pursuant to this section, Sections 17053.34, 17053.46, 17053.47, 17053.74, 23622.7, 23622.8, and 23646.*

(2) *The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section.*

(m) *This section shall remain in effect only until December 1, 2019, and as of that date is repealed.*

SEC. 9. *Section 23646 of the Revenue and Taxation Code is amended to read:*

23646. (a) (1) *For each taxable year beginning on or after January 1, 1995, and before January 1, 2013, there shall be allowed as a credit against the "tax" (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual or a qualified displaced employee during the taxable year for employment in the LAMBRA. The credit shall be equal to the sum of each of the following:*

~~(1)~~

(A) *Fifty percent of the qualified wages in the first year of employment.*

1 ~~(2)~~
2 (B) Forty percent of the qualified wages in the second year of
3 employment.

4 ~~(3)~~
5 (C) Thirty percent of the qualified wages in the third year of
6 employment.

7 ~~(4)~~
8 (D) Twenty percent of the qualified wages in the fourth year of
9 employment.

10 ~~(5)~~
11 (E) Ten percent of the qualified wages in the fifth year of
12 employment.

13 (2) (A) *For each taxable year beginning on or after January*
14 *1, 2013, and before January 1, 2019, there shall be allowed as a*
15 *credit against the “net tax,” as defined in Section 17039, to a*
16 *qualified taxpayer for hiring a qualified disadvantaged individual*
17 *or a qualified displaced employee during the taxable year for*
18 *employment in the LAMBRA. The credit shall be equal to the sum*
19 *of each of the following:*

20 (i) *Ten percent of qualified wages in the first year of*
21 *employment.*

22 (ii) *Ten percent of qualified wages in the second year of*
23 *employment.*

24 (iii) *Thirty percent of qualified wages in the third year of*
25 *employment.*

26 (iv) *Forty percent of qualified wages in the fourth year of*
27 *employment.*

28 (v) *Fifty percent of qualified wages in the fifth year of*
29 *employment.*

30 (B) *The credit shall be allowed only with respect to qualified*
31 *wages paid for each net increase in qualified employees. A net*
32 *increase shall be determined by subtracting from the amount*
33 *determined in clause (i) the amount determined in clause (ii). For*
34 *purposes of this subparagraph, “qualified employees” means*
35 *qualified disadvantaged individuals and qualified displaced*
36 *employees.*

37 (i) *The total number of qualified employees employed in the*
38 *state in the preceding taxable year by the qualified taxpayer and*
39 *by any trade or business acquired by the qualified taxpayer during*
40 *the preceding taxable year.*

1 (ii) *The total number of qualified employees employed in the*
2 *state in the current taxable year by the qualified taxpayer and by*
3 *any trade or business acquired by the qualified taxpayer during*
4 *the current taxable year.*

5 (C) *If a qualified taxpayer relocated to a targeted tax area from*
6 *within the state during the taxable year for which the credit is*
7 *claimed, the qualified taxpayer shall be allowed a credit with*
8 *respect to qualified wages for each net increase in qualified*
9 *employees only if the qualified taxpayer makes each employee at*
10 *the previous location or locations a written bona fide offer of*
11 *employment at the new location.*

12 (b) For purposes of this section:

13 (1) “Qualified wages” means:

14 (A) That portion of wages paid or incurred by the employer
15 during the taxable year to qualified disadvantaged individuals or
16 qualified displaced employees that ~~does not exceed 150~~ exceeds
17 200 percent of the minimum wage and does not exceed 500 percent
18 of the minimum wage.

19 (B) The total amount of qualified wages which may be taken
20 into account for purposes of claiming the credit allowed under this
21 section shall not exceed two million dollars (\$2,000,000) per
22 taxable year.

23 (C) Wages received during the 60-month period beginning with
24 the first day the individual commences employment with the
25 taxpayer. Reemployment in connection with any increase, including
26 a regularly occurring seasonal increase, in the trade or business
27 operation of the qualified taxpayer does not constitute
28 commencement of employment for purposes of this section.

29 (D) Qualified wages do not include any wages paid or incurred
30 by the qualified taxpayer on or after the LAMBRA expiration date.
31 However, wages paid or incurred with respect to qualified
32 disadvantaged individuals or qualified displaced employees who
33 are employed by the qualified taxpayer within the LAMBRA within
34 the 60-month period prior to the LAMBRA expiration date shall
35 continue to qualify for the credit under this section after the
36 LAMBRA expiration date, in accordance with all provisions of
37 this section applied as if the LAMBRA designation were still in
38 existence and binding.

39 (2) “Minimum wage” means the wage established by the
40 Industrial Welfare Commission as provided for in Chapter 1

1 (commencing with Section 1171) of Part 4 of Division 2 of the
2 Labor Code.

3 (3) “LAMBRA” means a local agency military base recovery
4 area designated in accordance with the provisions of Section 7114
5 of the Government Code.

6 (4) “Qualified disadvantaged individual” means an individual
7 who satisfies all of the following requirements:

8 (A) (i) At least 90 percent of whose services for the taxpayer
9 during the taxable year are directly related to the conduct of the
10 taxpayer’s trade or business located in a LAMBRA.

11 (ii) Who performs at least 50 percent of his or her services for
12 the taxpayer during the taxable year in the LAMBRA.

13 (B) Who is hired by the employer after the designation of the
14 area as a LAMBRA in which the individual’s services were
15 primarily performed.

16 (C) Who is any of the following immediately preceding the
17 individual’s commencement of employment with the taxpayer:

18 (i) An individual who has been determined eligible for services
19 under the federal Job Training Partnership Act (29 U.S.C. Sec.
20 1501 et seq.), or its successor.

21 (ii) Any voluntary or mandatory registrant under the Greater
22 Avenues for Independence Act of 1985 provided for pursuant to
23 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
24 3 of Division 9 of the Welfare and Institutions Code.

25 (iii) An economically disadvantaged individual 16 years of age
26 or older.

27 (iv) A dislocated worker who meets any of the following
28 conditions:

29 (I) Has been terminated or laid off or who has received a notice
30 of termination or layoff from employment, is eligible for or has
31 exhausted entitlement to unemployment insurance benefits, and
32 is unlikely to return to his or her previous industry or occupation.

33 (II) Has been terminated or has received a notice of termination
34 of employment as a result of any permanent closure or any
35 substantial layoff at a plant, facility, or enterprise, including an
36 individual who has not received written notification but whose
37 employer has made a public announcement of the closure or layoff.

38 (III) Is long-term unemployed and has limited opportunities for
39 employment or reemployment in the same or a similar occupation
40 in the area in which the individual resides, including an individual

1 55 years of age or older who may have substantial barriers to
2 employment by reason of age.

3 (IV) Was self-employed (including farmers and ranchers) and
4 is unemployed as a result of general economic conditions in the
5 community in which he or she resides or because of natural
6 disasters.

7 (V) Was a civilian employee of the Department of Defense
8 employed at a military installation being closed or realigned under
9 the Defense Base Closure and Realignment Act of 1990.

10 (VI) Was an active member of the Armed Forces or National
11 Guard as of September 30, 1990, and was either involuntarily
12 separated or separated pursuant to a special benefits program.

13 (VII) Experiences chronic seasonal unemployment and
14 underemployment in the agriculture industry, aggravated by
15 continual advancements in technology and mechanization.

16 (VIII) Has been terminated or laid off or has received a notice
17 of termination or layoff as a consequence of compliance with the
18 Clean Air Act.

19 (v) An individual who is enrolled in or has completed a state
20 rehabilitation plan or is a service-connected disabled veteran,
21 veteran of the Vietnam era, or veteran who is recently separated
22 from military service.

23 (vi) An ex-offender. An individual shall be treated as convicted
24 if he or she was placed on probation by a state court without a
25 finding of guilty.

26 (vii) A recipient of:

27 (I) Federal Supplemental Security Income benefits.

28 (II) Aid to Families with Dependent Children.

29 (III) CalFresh benefits.

30 (IV) State and local general assistance.

31 (viii) Is a member of a federally recognized Indian tribe, band,
32 or other group of Native American descent.

33 (5) "Qualified taxpayer" means a corporation that conducts a
34 trade or business within a LAMBRA and, for the first two taxable
35 years, has a net increase in jobs (defined as 2,000 paid hours per
36 employee per year) of one or more employees as determined below
37 in the LAMBRA.

38 (A) The net increase in the number of jobs shall be determined
39 by subtracting the total number of full-time employees (defined
40 as 2,000 paid hours per employee per year) the taxpayer employed

1 in this state in the taxable year prior to commencing business
2 operations in the LAMBRA from the total number of full-time
3 employees the taxpayer employed in this state during the second
4 taxable year after commencing business operations in the
5 LAMBRA. For taxpayers who commence doing business in this
6 state with their LAMBRA business operation, the number of
7 employees for the taxable year prior to commencing business
8 operations in the LAMBRA shall be zero. If the taxpayer has a net
9 increase in jobs in the state, the credit shall be allowed only if one
10 or more full-time employees is employed within the LAMBRA.

11 (B) The total number of employees employed in the LAMBRA
12 shall equal the sum of both of the following:

13 (i) The total number of hours worked in the LAMBRA for the
14 taxpayer by employees (not to exceed 2,000 hours per employee)
15 who are paid an hourly wage divided by 2,000.

16 (ii) The total number of months worked in the LAMBRA for
17 the taxpayer by employees who are salaried employees divided
18 by 12.

19 (C) In the case of a qualified taxpayer that first commences
20 doing business in the LAMBRA during the taxable year, for
21 purposes of clauses (i) and (ii), respectively, of subparagraph (B)
22 the divisors “2,000” and “12” shall be multiplied by a fraction, the
23 numerator of which is the number of months of the taxable year
24 that the taxpayer was doing business in the LAMBRA and the
25 denominator of which is 12.

26 (D) *“Qualified taxpayer” shall not include employers that*
27 *provide temporary help services, as described in Code 561320 of*
28 *the North American Industry Classification System (NAICS).*

29 (6) “Qualified displaced employee” means an individual who
30 satisfies all of the following requirements:

31 (A) Any civilian or military employee of a base or former base
32 that has been displaced as a result of a federal base closure act.

33 (B) (i) At least 90 percent of whose services for the taxpayer
34 during the taxable year are directly related to the conduct of the
35 taxpayer’s trade or business located in a LAMBRA.

36 (ii) Who performs at least 50 percent of his or her services for
37 the taxpayer during the taxable year in a LAMBRA.

38 (C) Who is hired by the employer after the designation of the
39 area in which services were performed as a LAMBRA.

1 (7) “Seasonal employment” means employment by a qualified
2 taxpayer that has regular and predictable substantial reductions in
3 trade or business operations.

4 (8) “LAMBRA expiration date” means the date the LAMBRA
5 designation expires, is no longer binding, or becomes inoperative.

6 (c) For qualified disadvantaged individuals or qualified displaced
7 employees hired on or after January 1, 2001, the taxpayer shall do
8 both of the following:

9 (1) Obtain from the Employment Development Department, as
10 permitted by federal law, the administrative entity of the local
11 county or city for the federal Job Training Partnership Act, or its
12 successor, the local county GAIN office or social services agency,
13 or the local government administering the LAMBRA, a
14 certification that provides that a qualified disadvantaged individual
15 or qualified displaced employee meets the eligibility requirements
16 specified in subparagraph (C) of paragraph (4) of subdivision (b)
17 or subparagraph (A) of paragraph (6) of subdivision (b). The
18 Employment Development Department may provide preliminary
19 screening and referral to a certifying agency. The Department of
20 Housing and Community Development shall develop regulations
21 governing the issuance of certificates pursuant to Section 7114.2
22 of the Government Code and shall develop forms for this purpose.

23 (2) Retain a copy of the certification and provide it ~~upon request~~
24 to the Franchise Tax Board *annually*.

25 (d) (1) For purposes of this section, both of the following apply:

26 (A) All employees of all corporations that are members of the
27 same controlled group of corporations shall be treated as employed
28 by a single employer.

29 (B) The credit (if any) allowable by this section to each member
30 shall be determined by reference to its proportionate share of the
31 qualified wages giving rise to the credit.

32 (2) For purposes of this subdivision, “controlled group of
33 corporations” has the meaning given to that term by Section
34 1563(a) of the Internal Revenue Code, except that both of the
35 following apply:

36 (A) “More than 50 percent” shall be substituted for “at least 80
37 percent” each place it appears in Section 1563(a)(1) of the Internal
38 Revenue Code.

(B) The determination shall be made without regard to Section 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue Code.

(3) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment of any employee, other than seasonal employment, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior income years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

1 (i) A termination of employment of an employee who voluntarily
2 leaves the employment of the taxpayer.

3 (ii) A termination of employment of an individual who, before
4 the close of the period referred to in paragraph (1), becomes
5 disabled to perform the services of that employment, unless that
6 disability is removed before the close of that period and the
7 taxpayer fails to offer reemployment to that individual.

8 (iii) A termination of employment of an individual, if it is
9 determined that the termination was due to the misconduct (as
10 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
11 the California Code of Regulations) of that individual.

12 (iv) A termination of employment of an individual due to a
13 substantial reduction in the trade or business operations of the
14 taxpayer.

15 (v) A termination of employment of an individual, if that
16 individual is replaced by other qualified employees so as to create
17 a net increase in both the number of employees and the hours of
18 employment.

19 (B) Subparagraph (B) of paragraph (1) shall not apply to any
20 of the following:

21 (i) A failure to continue the seasonal employment of a qualified
22 disadvantaged individual who voluntarily fails to return to the
23 seasonal employment of the qualified taxpayer.

24 (ii) A failure to continue the seasonal employment of a qualified
25 disadvantaged individual who, before the close of the period
26 referred to in subparagraph (B) of paragraph (1), becomes disabled
27 and unable to perform the services of that seasonal employment,
28 unless that disability is removed before the close of that period
29 and the qualified taxpayer fails to offer seasonal employment to
30 that qualified disadvantaged individual.

31 (iii) A failure to continue the seasonal employment of a qualified
32 disadvantaged individual, if it is determined that the failure to
33 continue the seasonal employment was due to the misconduct (as
34 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
35 the California Code of Regulations) of that individual.

36 (iv) A failure to continue seasonal employment of a qualified
37 disadvantaged individual due to a substantial reduction in the
38 regular seasonal trade or business operations of the qualified
39 taxpayer.

1 (v) A failure to continue the seasonal employment of a qualified
2 disadvantaged individual, if that individual is replaced by other
3 qualified disadvantaged individuals so as to create a net increase
4 in both the number of seasonal employees and the hours of seasonal
5 employment.

6 (C) For purposes of paragraph (1), the employment relationship
7 between the taxpayer and an employee shall not be treated as
8 terminated by either of the following:

9 (i) A transaction to which Section 381(a) of the Internal Revenue
10 Code applies, if the employee continues to be employed by the
11 acquiring corporation.

12 (ii) A mere change in the form of conducting the trade or
13 business of the taxpayer, if the employee continues to be employed
14 in that trade or business and the taxpayer retains a substantial
15 interest in that trade or business.

16 (3) Any increase in tax under paragraph (1) shall not be treated
17 as tax imposed by this part for purposes of determining the amount
18 of any credit allowable under this part.

19 (4) At the close of the second taxable year, if the taxpayer has
20 not increased the number of its employees as determined by
21 paragraph (5) of subdivision (b), then the amount of the credit
22 previously claimed shall be added to the taxpayer's tax for the
23 taxpayer's second taxable year.

24 (f) In the case of an organization to which Section 593 of the
25 Internal Revenue Code applies, and a regulated investment
26 company or a real estate investment trust subject to taxation under
27 this part, rules similar to the rules provided in Section 46(e) and
28 Section 46(h) of the Internal Revenue Code shall apply.

29 (g) The credit shall be reduced by the credit allowed under
30 Section 23621. The credit shall also be reduced by the federal
31 credit allowed under Section 51 of the Internal Revenue Code.

32 In addition, any deduction otherwise allowed under this part for
33 the wages or salaries paid or incurred by the taxpayer upon which
34 the credit is based shall be reduced by the amount of the credit,
35 prior to any reduction required by subdivision (h) or (i).

36 (h) In the case where the credit otherwise allowed under this
37 section exceeds the "tax" for the taxable year, that portion of the
38 credit that exceeds the "tax" may be carried over and added to the
39 credit, if any, in succeeding years, until the credit is exhausted.

1 The credit shall be applied first to the earliest taxable years
2 possible.

3 (i) (1) The amount of credit otherwise allowed under this section
4 and Section 23645, including any prior year carryovers, that may
5 reduce the “tax” for the taxable year shall not exceed the amount
6 of tax that would be imposed on the taxpayer’s business income
7 attributed to a LAMBRA determined as if that attributed income
8 represented all of the income of the taxpayer subject to tax under
9 this part.

10 (2) Attributable income shall be that portion of the taxpayer’s
11 California source business income that is apportioned to the
12 LAMBRA. For that purpose, the taxpayer’s business income that
13 is attributable to sources in this state first shall be determined in
14 accordance with Chapter 17 (commencing with Section 25101).
15 That business income shall be further apportioned to the LAMBRA
16 in accordance with Article 2 (commencing with Section 25120)
17 of Chapter 17, modified for purposes of this section in accordance
18 with paragraph (3).

19 (3) Income shall be apportioned to a LAMBRA by multiplying
20 the total California business income of the taxpayer by a fraction,
21 the numerator of which is the property factor plus the payroll factor,
22 and the denominator of which is two. For purposes of this
23 paragraph:

24 (A) The property factor is a fraction, the numerator of which is
25 the average value of the taxpayer’s real and tangible personal
26 property owned or rented and used in the LAMBRA during the
27 taxable year, and the denominator of which is the average value
28 of all the taxpayer’s real and tangible personal property owned or
29 rented and used in this state during the taxable year.

30 (B) The payroll factor is a fraction, the numerator of which is
31 the total amount paid by the taxpayer in the LAMBRA during the
32 taxable year for compensation, and the denominator of which is
33 the total compensation paid by the taxpayer in this state during the
34 taxable year.

35 (4) The portion of any credit remaining, if any, after application
36 of this subdivision, shall be carried over to succeeding taxable
37 years, as if it were an amount exceeding the “tax” for the taxable
38 year, as provided in subdivision (h).

39 (j) If the taxpayer is allowed a credit pursuant to this section for
40 qualified wages paid or incurred, only one credit shall be allowed

1 to the taxpayer under this part with respect to any wage consisting
2 in whole or in part of those qualified wages.

3 (k) (1) *For each taxable year beginning on or after January 1,*
4 *2013, and before January 1, 2019, the total aggregate amount of*
5 *credits allowed pursuant to this section shall not exceed the total*
6 *aggregate amount of credits claimed pursuant to this section in*
7 *the taxable year beginning on or after January 1, 2012, and before*
8 *January 1, 2013, as determined by the Franchise Tax Board.*

9 (2) *Upon receipt of a timely filed original return, the Franchise*
10 *Tax Board shall allocate the credit to the qualified taxpayer on a*
11 *first-come-first-served basis.*

12 (l) (1) *The Franchise Tax Board shall compile the certifications*
13 *submitted pursuant to paragraph (2) of subdivision (c) and shall*
14 *provide as a searchable database on its Internet Web site, for each*
15 *taxable year beginning on or after January 1, 2013, and before*
16 *January 1, 2019, the employer names, amounts of tax credit*
17 *claimed, and number of new jobs created for each taxable year*
18 *pursuant to this section, Sections 17053.34, 17053.46, 17053.47,*
19 *17053.74, 23622.7, 23622.8, and 23634.*

20 (2) *The Franchise Tax Board may prescribe rules, guidelines,*
21 *or procedures necessary or appropriate to carry out the purposes*
22 *of this section, including any guidelines regarding the allocation*
23 *of the credit allowed under this section.*

24 (m) *This section shall remain in effect only until December 1,*
25 *2019, and as of that date is repealed.*

26 SEC. 10. *No reimbursement is required by this act pursuant*
27 *to Section 6 of Article XIII B of the California Constitution because*
28 *the only costs that may be incurred by a local agency or school*
29 *district will be incurred because this act creates a new crime or*
30 *infraction, eliminates a crime or infraction, or changes the penalty*
31 *for a crime or infraction, within the meaning of Section 17556 of*
32 *the Government Code, or changes the definition of a crime within*
33 *the meaning of Section 6 of Article XIII B of the California*
34 *Constitution.*

35 SEC. 11. *This act provides for a tax levy within the meaning*
36 *of Article IV of the Constitution and shall go into immediate effect.*

37 SECTION 1. ~~Section 17010 of the Revenue and Taxation Code~~
38 ~~is amended to read:~~

39 17010. ~~“Taxable year” means either the calendar year or the~~
40 ~~fiscal year upon the basis of which the taxable income is computed~~

1 under this part. If no fiscal year has been established, “taxable
2 year” means the calendar year.
3 “Taxable year” means, in the case of a return made for a
4 fractional part of a year under this part or under regulations
5 prescribed by the Franchise Tax Board, the period for which the
6 return is made.

O